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WOODFALL'S

PARLIAMENTARY REPORTS.

VOL. II.

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Drawn from an original by Sir Joshua Reynolds

The Right Hon.ble Charles James Fox.

Published by T. Hughes, 59. Fleet Street, 1st Jan. 1784.

AN

IMPARTIAL REPORT

OF THE

DEBATES

THAT OCCUR IN THE

TWO HOUSES OF PARLIAMENT,

In the Courſe of the Fourth Seſſion of the Seventeenth Parliament of Great Britain, called to meet at Weſtminſter, on Tueſday the 21ſt of January 1794.

WITH

SOME ACCOUNT OF THE RESPECTIVE SPEAKERS,

AND

NOTES AND ILLUSTRATIONS.

INCLUDING COPIES OF ALL

STATE PAPERS, TREATIES, CONVENTIONS, &c.

By WILLIAM WOODFALL,

AND ASSISTANTS.

VOL. II.

LONDON:

PUBLISHED BY T. CHAPMAN, No. 151, FLEET-STREET.

1794.

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WOODFALL'S
PARLIAMENTARY REPORTS.

HOUSE OF COMMONS.

TUESDAY, FEBRUARY 18, 1794.

MR. ROSE presented the Preliminary Articles, Articles of Agreement, and the Return of the Hanoverian Troops. Ordered to lie on the Table.

Read a third time, and passed, the **Indemnity, Burial and Glove Duty Repeal Bills.**

An Account of the Quantity of Slates brought Coastways, was presented, and ordered to lie on the Table.

SLAVE TRADE.

Mr. Wilberforce brought in the bill to prohibit the supply of foreign dominions with slaves from the coast of Africa in British vessels, or by British subjects; which was read the first time, and ordered to be printed.

Mr. Wilberforce proposed that the bill should be read a second time on Friday next.

Mr. Cawthorne and *Alderman* [illegible] moved that the second reading should be postponed till [illegible] the 28th, as it was a bill of so much importance to [illegible] interests. They maintained, that those who thought themselves aggrieved by it, would not in a short period have time to consider it fully, and to offer to the legislature which it their opinions it required.

Mr. Wilberforce said, that the business of the Bill had long been known; that it was well understood in what way those interested in it; that the Amendment was proposed with the same motives which had dictated [illegible] with a view to defeat the Bill in toto. If that were true, Member of that House knew that it was to be [illegible] night afterwards, the day on which it [illegible] the arguments which he meant to [illegible] it.

Mr. Cawthorne affirmed the [illegible] that neither he nor his friends were in the least [illegible] to the House with any [illegible] and [illegible] thought the Bill [illegible] require the [illegible]

Admiralty. He ſtated the conſequence of not granting ſeparate convoys, from what had happened in that trade in the years 1781 and 1782. In the former year a ſeparate convoy had been granted, when it effectually ſecured the trade; in the latter year, from accidental circumſtances, the ſeparate convoy could not be granted, and therefore the trade ſuffered materially. On the 14th of May the merchants had written a letter to Mr. Stephens, the ſecretary to the Admiralty, complaining that they did not receive that attention from his Majeſty's miniſters which they were entitled to expect, and expreſſing, in language and terms which ſome perſons might have conſtrued into a menace, that they had no hope of better treatment. Mr. Fox read the ſeveral documents, and obſerved that they might have been conſidered by thoſe to whom they were addreſſed, as ſtrong proofs that there were ſome reſpectable merchants who were not ſatisfied with the conduct of the Admiralty.

A ſecond outward-bound fleet was afterwards prepared, and a demand made of a convoy to a particular day; which was alſo delayed. The merchants then warmly remonſtrated, obſerving in the end of their memorial, that "there muſt exiſt a power ſomewhere in the country which could force the attention of Government to its mercantile intereſts." The freedom of this language probably gave offence to the officers of adminiſtration, and was certainly ſuch as could not be paſſed over without obſervation. Mr. Fox ſaid he was not one of thoſe diſpoſed to be over-ſqueamiſh in exacting, upon all occaſions, the moſt reſpectful language from thoſe who addreſſed any part of his Majeſty's adminiſtration; but he confeſſed, that, were he a miniſter, he could not have read ſuch a memorial without ſome degree of emotion. But he would not have ſhewn his reſentment till he had convinced the merchants that their complaints were ill-founded, and that he had done every thing for them in his power; that conſequently he was entitled to tax them with ingratitude, for ſending him complaints when he deſerved their thanks.

It behoved miniſters to recollect, that the merchants were gentlemen to whoſe politics they could not take exception, having, on many former occaſions, given proofs of their political partiality towards them. After having ſent a remonſtrance to the Chancellor of the Exchequer, to uſe his influence with the Board of Admiralty in their favour, was found to produce no effect, many of the merchants reſolved to let their veſſels ſail without convoy, notwithſtanding the enormous price of inſurance. But this requeſt was alſo refuſed them; and they were told that they muſt wait for convoy, becauſe they

they carried ſome arms and military ſtores on board, as part of their cargo. Though it could ſcarcely be ſuſpected that any part of their warlike implements was intended for the ſupply of the enemy, yet he would grant that it might not have been prudent to let them ſail without convoy, leſt they might happen to be taken by the enemy. This, however, ſhould rather have operated as an inducement to accelerate their convoy, than as an argument for their delay; and the more ſo, as the ammunition being provided for the Indian market, the ſale would be loſt if the fleet did not arrive in time.

The homeward-bound fleet had alſo been detained in Quebec from an inſufficiency of convoy; having no veſſel to guard them but the Severn, which was out of condition. While they were thus waiting, information was received that his Majeſty's ſhip the Andromache was arrived, in order to take charge of them at the iſland of Bicque, in the Gulf of St. Lawrence. On receiving the intelligence, the governor (Clark) ſent off to Capt. Jones, of the Andromache, to requeſt that he would remain a few days; telling him, that if his orders from the Admiralty were not peremptory, the governor would take upon himſelf the reſponſibility of detaining him, as there were nineteen ſhips juſt ready to ſail. The Andromache, having perhaps poſitive orders ſo to do, had ſailed two days before the arrival of the governor's meſſenger; and the fleet being freighted with grain, and obliged to proceed, outſailed their convoy. Fortunately part of it arrived ſafe in Great Britain; but the other part, deſtined for the ſouthern countries of Europe, Spain and Portugal, had, in all probability, fallen into the hands of the enemy; the riſque being deemed ſo great, that ſcarcely any inſurance would be taken on them. The laſt fleet, he ſaid, did not ſail till November, deterred by the ſuppoſed ſuperiority of the enemy on the coaſt of America; ſo that the inſurance on thoſe valuable veſſels employed in the fur trade, was at an end. One of thoſe veſſels alone, which was valued at 150,000 l. came home uninſured: However, ſhe came home ſafe; for when one came in, and gave intelligence of the others, inſurances were made; but the Houſe would readily conceive from ſuch circumſtances, that the policies were filled up at very immoderate premiums. Thus had he ſhewn how far, and in what manner, the Quebec trade had been neglected; and before he had done, he had no doubt but that he ſhould be able to ſhew the Houſe, that there was not a quarter of the globe to which the commerce of this country extended, reſpecting the trade of which loud complaints had not been made of the want of convoys. The ſtate of the Weſt-India homeward-bound fleet, at the commence-

ment

ment of the war, naturally excited the utmoſt anxiety in this country. On application being made to the Admiralty by the Committee of Merchants, reſpecting the convoys appointed for it, the anſwer given was, that inſtructions to that purpoſe had been ſent out in the packet which ſailed in May; and it being aſked whether any duplicate of the inſtructions had alſo been ſent? the reply was, orders to that effect went out in May, by a packet to the Windward Iſlands; and in June, duplicates of that order were ſent out in another packet. When the Houſe conſidered the circumſtances of an order ſo material being truſted at ſo late a period to the ſecurity of ſo unprotected a veſſel as a packet, they muſt, he conceived, think it ought to be ſeriouſly inquired into. On the 11th of June, however, the order deſpatched in May reached the Admiral. On the 22d of the ſame month, the Admiral ſaid he ſent two ſhips to Jamaica; but did not ſay whether he diſpatched them immediately, or poſtponed it. For his part, Mr. Fox ſaid, he ſhould rather ſuppoſe the latter; becauſe the two ſhips did not arrive at Jamaica till the 27th; and the paſſage was not, at moſt, above eight days ſail. The fleet arrived in ſafety, for which we had abundant reaſon to rejoice; but chance having thus befriended us, the ſhameful improvidence of miniſters was not the leſs reprehenſible.

Such an inſtance of madneſs had never occurred in any former war, as the ſending home a fleet worth four millions of money under the convoy of a frigate; and yet, Mr. Fox ſaid, the Proſerpine was entruſted with this important charge, while the Europa was ordered to ſee them out of the Gulf of Florida, and then returned. No excuſe, he ſaid, could poſſibly be offered for ſo raſh a meaſure as entruſting a fleet of that value to ſo very poor and inadequate a convoy, when it was known that the French had two ſeventy-four gun ſhips in that part of the world. Miniſters would ſay, the fleet came home ſafe; but they were not to be juſtified by accidental reſults, for which they could take no merit, while they were anſwerable to their country for having neglected to employ every rational means for the ſecurity of its commerce. The protection of Lord Howe's ſuperior fleet, after they had performed a certain part of their voyage, was too precarious to place much reliance on. It was to be conſidered alſo, that they were expoſed to every poſſible danger in their paſſage through the Atlantic, eſpecially that part of it which bordered on the coaſt of America, where the French were well known to be ſuperior at ſea. The ſituation of Jamaica was alſo worthy of notice, which being then at a very reduced peace eſtabliſhment, was under the neceſſity of remaining expoſed, and

and at the mercy of the enemy, whilſt it detached part of its own little force to convoy this fleet to a certain latitude, although the French were at that time in force at St. Domingo.

The outward-bound Weſt India fleet experienced no better treatment from the government. It was ready to ſail on the 15th of May: The convoy was appointed for the 1ſt of June, and was not ready to weigh till the 23d of Auguſt. Still this was not all; for when they reached Barbadoes, which was many hundred leagues out of the way of many of them bound for Antigua, St. Kitt's, and other iſlands, the convoy parted company, and left them to ſhift for themſelves; and being thus at the mercy of the enemy, many of them were alſo taken, in conſequence of being brought out of their way many leagues.

Our trade to Germany was not exempt from the general neglect, as was ſeverely experienced by the Hambro' and other merchants. From the lateneſs of the convoy's ſailing, that conſumption which we were before accuſtomed to find a market for in the fairs of Germany was loſt. It was however, Mr. Fox ſaid, the leſs neceſſary for him to dwell upon that circumſtance in this place, as he ſhould have ſo much to ſay upon it when he came to ſpeak on the Italian trade.

From the great force we kept up in the Mediterranean, the trade to the ports in that ſea might reaſonably be expected to be particularly well ſecured; notwithſtanding which, conſidering it in all its extent, as far as Smyrna, it never was ſtrongly and effectually protected. At the commencement of the war it was natural, France being ſhut up from us, which was ſo capital a market, particularly in the laſt two years, for the conſumption of our woollens, a great ſtagnation ſhould take place in the manufacture of that article. The effect was ſuch as might be foreſeen, and in conſequence innumerable artificers were ſuddenly thrown out of employment.

At this critical period large and unexpected orders fortunately arrived for the ſupply of Italy in thoſe very articles; and happy would it have been for thouſands if the opportunity had been made a proper uſe of. From the general depreſſion of the times, the great manufacturers of Norwich, Exeter, and Leeds, though they ſaw ſuch numbers of their former workmen ſtarving for want of employ, would not venture to execute theſe orders, unleſs they had better protection than they had experienced at the commencement of the war, and an abſolute promiſe that the Board of Admiralty would furniſh them with convoys on a day which they named, in order that they might be in time for the great fairs of Italy. This promiſe

miſe was made them, and was diſgracefully violated. They continued their remonſtrances to no purpoſe, till within twenty days of the great fair of Senegaglia. The convoys being at length appointed, they proceeded on their voyage; and, inſtead of ſailing directly to Ancona, from whence the bales are diſpatched to Senegaglia, they were taken into Leghorn. His Holineſs the Pope, as a matter of ſpecial favour, deferred the fair for a fortnight beyond the regular time. But the ſhips were detained at Leghorn till a meſſage was ſent off to Lord Hood; and in ſhort, ſuch were the delays and diſappointments they experienced, that before the goods could arrive at their place of deſtination, the fairs of Senegaglia and Salerno were over. To uſe a vulgar expreſſion, the goods "came a day after the fair," and the market was loſt. The conſequence was, that the articles were obliged to remain till another ſeaſon at the loſs of one-fourth of their value, namely, 25l. per cent. upon their bills of invoice, which has put a ſtop to that branch of trade, as the manufacturers of theſe great towns, having been twice diſappointed, had come to a reſolution not to execute any more orders they may receive from Italy, from a dread of the repetition of the ſame treatment from government. While Gentlemen heard theſe repreſentations, they would ſurely pay no regard to the ridiculous diſtinctions of miniſters, when they ſaid, that no veſſels were actually taken under convoy. This caſe would prove, that the delay of convoy was often even worſe than could be apprehended from capture; for had this fleet ſailed without any convoy whatever, they might have inſured the property for leſs than one-fourth of its value, which was now loſt under the protection of government. It was not to be wondered at, if, under the preſſure of ſuch injuries, theſe manufacturers uſed ſtrong language in their expoſtulations with miniſters. In confirmation of what he advanced, Mr. Fox read a letter from an eminent manufacturer at Leeds, which ſtated, that he would not ſend any more goods until the departing with them of a good convoy. This Gentleman did not at preſent give him any authority to mention his name; but he would certainly come forward if the Houſe would be pleaſed to order an inquiry. He had another letter from Exeter, making a ſimilar complaint; the writer of which had no objection to give his name: The letter was ſigned John Milford and Co.—Theſe Gentlemen were, he declared, entirely unknown to him: He had no political intereſt or connexion with any of them: He did not even know who they were; but their communications to him were ſo reputably recommended, that he had no doubt whatever of their honour

and

and integrity, or of the truth of the circumſtances they related. He next read a memorial from Leeds, which had been preſented to the Lords of the Admiralty, complaining, in the moſt ſpirited and plain terms, of the manner in which their trade had been neglected for the want of ſufficient convoys, and expreſſing the moſt alarming apprehenſions of the total ruin of the trade, if no better care was taken in future to protect it. He knew not for a certainty that all theſe complaints were true, but he verily believed them to be ſo: If they were not, this was another inſtance of groſs ingratitude on the part of perſons who, in that caſe, had received favours from the Admiralty. The truth, however, he muſt again ſay, he believed to be, that they had juſt ground for their complaints, and that on an inquiry it would appear, they had not been protected by government at all, but, on the contrary, had been moſt ſhamefully neglected, and that government had been guilty of a groſs breach of faith, and had acted towards them in a way, which, if the tranſaction was between individual and individual, all character for honour and worth would have been loſt for ever. The Houſe ought to look at the probable effect of all this, and to think of the many hundreds of men who would ſoon be out of employment in conſequence of their inattention and miſconduct. This, Mr. Fox ſaid, might be conſidered as a kind of diſpute between the Lords of the Admiralty and the manufacturers, the amount of which was: That the manufacturers had in many inſtances felt the remiſſneſs and the negligence of the Admiralty to be ſo injurious to them, that the inſurance of their property in time of war was not ſo exorbitant as the loſs would be great to them in waiting for a convoy. But this negligence, great and culpable as it was, yet was ſtill made worſe on account of the treachery with which it was attended, for promiſes had been held out which had never been ſubſtantiated. Poſſeſſed of ſuch information on the ſubject as he was, Mr. Fox declared he could not help admiring the nerves of thoſe who boaſted of the manner in which the whole of the trade of this country had received the moſt complete protection! He was not peculiarly ſtiff in his ideas of the dignity of office, and he might perhaps be ſatisfied with plainer language of complaint than ſome others, and might not be diſpoſed to expect high compliments on his diligence in public affairs, when men came to complain that their intereſts were neglected; yet he confeſſed, if he felt he had not deſerved ſuch ſevere reproaches as theſe memorials from the merchants conveyed, he ſhould have inquired minutely into the facts, inſtead of paſſing them by in ſilence. He would have ſaid, "Gentle-

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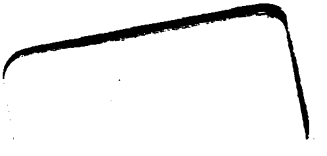

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which, in his mind, was a complete refutation of the aſſertions of the Right Honourable Gentleman; namely, "That the premiums of inſurance in the Baltic trade now, were preciſely and exactly the ſame as in times of the moſt profound peace."

With regard to what the Right Hon. Gentleman had ſtated relative to the number of veſſels that had been captured, and carried to a particular place that had been named by that Right Hon. Gentleman, he had only to obſerve, that they could *make ſtories* in Denmark as well as in any other part of the globe, and that upon inquiry, he had found the whole of what the Right Hon. Gentleman had ſtated relative to the Baltic fleet to have originated in the tale of a Daniſh ſhip-maſter. As ſoon as it had been underſtood that two French frigates had ſailed from Dunkirk, a force was immediately ſent in purſuit of them: The conſequence was, that one of them was captured by the Dido, and the other was run aſhore. When the Right Hon. Gentleman brought on the ſubject before, he ſaid the reſult of the inquiry that had been made amounted to nothing. In regard to that, he could only remark, that what he had ſtated were plain, ſimple, and incontrovertible facts, which he ſhould, and which he was convinced that Houſe always would, prefer, when clearly ſtated, to the greateſt elocution in the world.

Major Maitland ſaid, before he entered into a conſideration of the preſent queſtion, he would ſhortly take notice of what had fallen from the Hon. Alderman, who ſeemed in ſome ſort to triumph. All that had been aſked of him on a former night, was, to anſwer a ſimple queſtion in an explicit manner, which he would not do. The not appointing convoys when applied for by the merchants, and not keeping the promiſes of appointments when they had been made, were not, he contended, to be refuted by general aſſertions, but ſhould be oppoſed by that particular inquiry to which the preſent motion tended. On the ſubject of the Quebec convoys, he condemned the Admiralty; not only for having omitted to grant ſufficient convoys, but for having promiſed what they did not grant, and therefore they had broken their words to the merchants. It had been ſaid, that our fleets had generally arrived ſafe, and that underwriters had made fortunes; but this was merely a proof of good luck, not of proper vigilance in the Admiralty. In fact, thoſe aſſertions did not affect the motion, which went only to propoſe the inſtitution of a Committee of Inquiry on a ſubject, concerning which there was a moſt undoubted contrariety of evidence. The convoy under Admiral King had been mentioned; his name ſurely would carry

carry reſpect in that Houſe; but he happened to be in town at the time, and that fleet ſailed under convoy of a ſingle ſloop (the Druid), and after waiting ſo long that they could not arrive in time for the Indian market. As to the homeward-bound fleet, there was ſo very great and eſſential a difference between the ſtatements and authorities on each ſide of the Houſe, that the circumſtance itſelf pointed out the neceſſity for an inquiry in order to come at the truth. If, at the commencement of a war, a greater convoy was not neceſſary, why was any promiſe given to convoy them; and when they arrived at Gibraltar why tell them, Here you muſt remain, we can give you no further protection? He ſtated, upon the authority of the Exeter merchants, that the delay of their ſhips ſailing was occaſioned by the embargo laid by government upon all ſhips at that time; and then what happened reſpecting the firſt and ſecond convoy at Falmouth, was entirely owing to government, and not to the merchants, who had ſuffered a very heavy loſs in conſequence. With regard to the firſt Jamaica convoy, it was univerſally allowed, that ſo ſmall a force was never employed to convoy ſhips carrying cargoes to ſo great an amount in value. He really believed, that no man in Jamaica, nor any merchant not in office, would ſay that adequate protection had been afforded to that branch of our trade. As to the Admiralty never having heard of any application on that ſubject, he was ſurpriſed at the aſſertion; they muſt have entirely forgotten the application of Mr. Hibbert, by deſire of the Weſt India merchants, dated 9th of Auguſt, given in a note to Mr. Stephens, which Major Maitland read. He likewiſe read an advertiſement in the Jamaica paper, ſtating the inadequacy of that convoy. The next convoy, which was for a fleet of much leſs value, was conſiderably greater in force; which proved that the Hon. Admiral was convinced of the inadequacy of the firſt. He likewiſe contended, that the iſland of Jamaica was not ſufficiently protected at that very time, particularly as no protection could be afforded on the coaſt of America, which was then entirely commanded by French men of war. He aſſured the oppoſite ſide of the Houſe, that his Hon. Friend, who had mentioned the unprotected ſtate of Halifax, though in the Houſe that night, was not well enough to bring forward what he had to ſay on that ſubject, yet he would certainly take an early opportunity to do ſo. He ſtated that a large ſhip, laden with maſts, had been blocked up there for ſix months, and the demurrage payable by contract with government already amounted to 3000l. If any one doubted it, he would produce the contract, which was in his

pocket. He likewiſe mentioned that two regiments, the 6th and 65th, had been ordered from New Brunſwick to the Weſt Indies: There were no ſhips to carry them, and government was obliged to charter ſome that were not launched, were obliged to engage them for ſix months certain, and pay 1300l. before they ſailed. All this proved an equal neglect as to the expenditure of money, and the protection of trade. Theſe regiments were ſo long detained, that they arrived during the rainy ſeaſon, and ſuffered very conſiderably. Conſidering the ſtatements of his Right Hon. Friend, and conſidering the anſwers of the Hon. Admiral on the floor, he truſted that the Houſe would deliberate a little, before they ſhould decide upon the queſtion under diſcuſſion. He concluded, from all that had appeared, they ought to deliberate before they came to a final deciſion that night; for though jealouſy of the conduct of miniſters was proper at all times in that Houſe, it became ſo more particularly when inquiry was attempted to be quaſhed on ſuch important ſubjects.

Mr. Alderman Curtis ſaid, he was anxious to deliver his ſentiments in ſupport of what had fallen from his worthy colleague, relative to the Baltic trade. When the Right Hon. Gentleman (Mr. Fox) had made the aſſertion on a former occaſion, he was inclined to believe that he was right. But he had ſince made particular inquiry, and found that 130 ſhips had ſailed under the convoy of the *Thames* frigate, two of which had been captured; both of them, however, ſubſequent to the time that they had parted from their convoy. No blame could, therefore, poſſibly be imputed to the Admiralty, in conſequence of this. He admitted, that if a greater naval force had been at Jamaica, the convoy which accompanied that fleet would have been, comparatively with the value of the ſhips, too ſmall; but he ſaw no ground to criminate the Admiralty, for not having a greater force on that ſtation. The Alderman declared, he had no great objection to the motion; being confident, that all inquiry would only more clearly evince the laudable conduct of the Admiralty.

It ſhould be recollected, in the whole of the argument however, that the naval eſtabliſhments of laſt year amounted only to 13,000 men. And what was done? Our trade had been protected, and the ſeas had been moſt effectually cleared of the enemy's cruizers. More convoys, undoubtedly, could be appointed, when the naval eſtabliſhment amounted to 75,000 men. In regard to the Weſt India trade, every ſhip from that quarter had arrived ſafe, and not a ſingle veſſel had been captured while under convoy. All the merchants, the Alderman ſaid,

ſaid, were perfectly ſatisfied with the protection that had been afforded our trade, and were content to bear the riſk at a very inconſiderable premium.

Mr. D. Scott ſaid, he meant to ſtate a few facts, which led him to think that no blame was imputable to the Admiralty; and theſe facts he had collected from Lloyd's books. He had made out an average ſtatement of the premium, and drawn a compariſon between the premium this war and that in former wars. He found in the Weſt India trade, the premium without convoy, laſt war, was twenty-five per cent.; with convoy, twelve per cent.: This war it was ſix per cent. without convoy, and four per cent. with; from which it was plain, that the premium without convoy this war, was only half of the premium with convoy laſt war. This, in his opinion, was the only criterion by which Gentlemen could judge of the ſtate of protection afforded to our trade. He likewiſe obſerved, that the Eaſt India trade had been well protected; and that the only captures, in that part of the globe, were inconſiderable coaſting traders.

Mr. Pybus ſaid, that from the very complicated manner in which the Right Hon. Gentleman had brought forward his motion, he had certainly taken poſſeſſion of the *vantage ground;* ſince, from the great extent of the queſtion, and the vaſt variety of dates and circumſtances that were implicated in it, it was impoſſible for any human memory to embrace the whole ſubject. The Right Hon. Gentleman would have acted more fairly, however, if he had given notice on what points he intended to dwell, as Gentlemen would conſequently have had an opportunity of turning their thoughts to thoſe particular points. He ſhould not attempt to go over the whole of the ground that the Right Hon. Gentleman had occupied; but would content himſelf with obſerving, that, upon the whole, no poſſible blame could be imputed to the Admiralty. The grand and principal queſtions were, whether convoys had not been granted for the protection of our trade? whether the convoys that had been granted, were ſufficiently adequate? or, whether the convoys that had been applied for, had not been wilfully and wantonly delayed? That they had in ſome inſtances been delayed, was beyond all doubt; for blameable indeed would have been the conduct of the Admiralty, had they complied with all the applications that had been made to them day after day. So far from being liable to blame in that reſpect, he muſt contend, that they were deſerving of praiſe; for they had the beſt means of knowing the force of the country, in what manner it was moſt proper to be applied, and what part of it could be ſpared.

What had been the reſult? The preſumption was ſtrongly in favour of the Admiralty: Becauſe, what intereſt had the Admiralty in delaying the appointment of convoys; or not doing that, which, if they omitted, muſt draw blame and puniſhment after it? He was perfectly ſatisfied, that the greateſt exertions had been made in every particular, conſiſtent with the general ſafety of the whole. The Admiralty, it ſhould be remembered, were bound to conſult the general intereſts of commerce, and not to beſtow a partial attention to particular applications. Every application of a general advantage, that had been made to the Admiralty, had, in conſequence, been attended to, and complied with. In fact, it was clearly and obviouſly the intereſt of that office, to afford every protection to our trade that circumſtances would admit.

With reſpect to our coaſting trade, Mr. Pybus maintained, it had ever been eſteemed the beſt mode to protect it by cruizers, as better adapted to the purpoſe than convoys; this mode had been adopted in the preſent war, and with general ſucceſs.

With regard to convoys, he ſaid, no one ſhip whatever had been taken when ſailing with convoy. And as to the Quebec fleet coming home with only one frigate, it aroſe from their not touching at the Iſle of Bicque, to which place another frigate had been ſent, for the purpoſe of ſtrengthening the convoy. It was objected to this, that the merchants had no notice of it; but in anſwer, it muſt be obſerved, that laſt war that iſland was the place of general rendezvous; and, therefore, the merchants ſhould have been aware of the circumſtance, as an arrangement highly probable. How was it to appear, that the convoys were inadequate and inſufficient? It muſt be made to appear, from the ſentiments entertained on the ſubject by the great body of the merchants of the country, and not from the obſervations of a few diſcontented individuals. It was upon this view of the ſubject, that that Houſe would divide upon the queſtion. How was this general diſſatisfaction, ſaid to prevail in the mercantile world, made to appear? The Right Hon. Gentleman had attempted to prove it, by adducing a few ſolitary inſtances. Were this general diſſatisfaction to prevail, it might have been ſuppoſed, that ſeveral remonſtrances from different parts would have been the conſequence: He knew of none. Sure he was, the great body of merchants out of doors were fully ſatisfied with the protection that had been afforded to the commerce of the country; and the language that had been held by the mercantile Gentlemen within the walls of that Houſe, one ſolitary Gentleman excepted, was another indiſputable proof of the propriety

propriety of the conduct purſued by the Lords of the Admiralty. Surely merchants beſt know how to decide, whether their own affairs were properly conducted: They were themſelves competent judges in matters of trade and protection, and did not require the interference or aid of the Right Hon. Gentleman (Mr. Fox). If he thought, by his eloquence, to convince the merchants and underwriters, that they were loſers by the protection of the trade ſince the commencement of the war being neglected, he would not be able to fulfil his taſk, for they could judge very ſufficiently for themſelves. It could not be ſuppoſed that the merchants of this country would imagine that they had not acted right, if the Right Hon. Gentleman had not given his ſanction to their conduct. The merchants of this country were by no means blind to their own intereſts. They acted with their eyes open. They had argued on facts that were not to be done away by ſophiſtry or deluſion; and the reſult was, their entire approbation of the conduct of the Admiralty.

The point that the Right Hon. Gentleman had given notice of, he had completely abandoned. It could not but be matter of great delight and ſatisfaction to this great commercial country, that, under the preſent exiſting circumſtances, no ſhips under convoys had been captured. Mr. Pybus made a few other obſervations on the general ſubject; and concluded with declaring, that he had no perſonal motive to avoid an inquiry. But if the Houſe differed from him with reſpect to the propriety of inſtituting that inquiry, he ſhould bow to their determination, not only with reſignation, but with cheerfulneſs.

Mr. Vaughan, having been ſo particularly alluded to, ſaid, he thought it neceſſary to ſay a few words, and ſtate evidence in ſupport of what he had formerly advanced. As to what had been laid ſo much ſtreſs upon by different Gentlemen, the difference of the premium this war from laſt, it had been very unfairly ſtated, becauſe the circumſtances were completely different. In this war, we had only France to contend with: In the laſt, we had France, Spain, and Holland againſt us, beſides an armed neutrality; and would any man ſay, conſidering too the preſent ſtate of the French navy, that the riſk was the ſame now, or that it was fair to ſtate the preſent premium as a proof of the care and protection which the Admiralty had given to our convoys? In this opinion he was not ſo ſolitary as the Hon. Gentleman imagined, particularly with regard to the Jamaica fleet, and the time and manner that they firſt received information of the war. He remembered what Governor Johnſtone had once ſaid on that ſubject: Hearing

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at ſea of the war breaking out with Spain, he ſtudiouſly threw himſelf in the way of the ſhips that were carrying out the intelligence to the Havannah, and this had afterwards very lucky effects in the operations that followed. In the preſent caſe Jamaica was not indebted to this country for early intelligence of the war, for the firſt information they had, was from our enemies at Hiſpaniola. Mr. Vaughan made ſome remarks on furniſhing war-convoys from a reduced peace eſtabliſhment. He likewiſe thought, that two line-of-battle ſhips were not ſo good a convoy as one large ſhip and ſeveral ſmaller ones; and he wiſhed to have the nature of that rule explained, which he underſtood exiſted, and by which an Admiral was prevented from joining a convoy, even if it was in his way to do ſo. He thought the firſt Jamaica fleet had been ſhamefully neglected, and ſtated the loſs that had occurred from the detention of the rums and ſugars for want of convoy. The proper ſtation for the Channel fleet, when it was meant to protect our homeward-bound trade, had generally been reckoned to be to cruize off Breſt harbour; becauſe blocking up the enemy in port, was better than letting them out, and truſting to preventing them from falling in with our fleet. On the ſubject of convoys in general, he diſapproved of arguing from precedents. He was of opinion, that the coaſt of America had been overlooked; and, from the general conduct of the appointment of convoys ſince the commencement of the war, that an inquiry was proper and neceſſary.

Mr. Grey ſaid, he was at a loſs in what manner to take up the queſtion, at ſo late a ſtage of the debate, when no one objection had yet been offered againſt going into the committee propoſed by the motion. An Hon. Gentleman, who ſpoke laſt but one (Mr. Pybus), expreſſed a wiſh to avoid taking notice of all particular complaints and details of what had been ſuffered from the want of proper attention at the Admiralty to convoys; and thought arguing the queſtion upon general grounds was ſufficient to prevent inquiry, notwithſtanding the many facts that had been adduced. So conſcious did he ſeem of deſerving general applauſe, that he ſaid the Admiralty had received that applauſe with one ſolitary exception. If ſo, it might have been as well that the Hon. Gentleman had produced ſome teſtimonies of that applauſe; but that he had not done, farther than by complimenting ſome opulent Gentlemen who were in buſineſs, and ſupporting him on the preſent queſtion; though all which that ſupport amounted to was merely matter of opinion, ſuch as an Hon. Alderman had given, reſpecting his limited connexion with the Baltic trade; and what ſort of general applauſe was this that the Hon.

Gentleman boaſted of? Another Hon. Alderman had agreed as to the Baltic trade; but what did he ſay about other trades? Why, that he thought the protection had not been ſo great as he could have wiſhed it, and hoped it would be greater next year. Mr. Grey followed Mr. Vaughan, in arguing the difference of circumſtances between this and former wars, as far as they affected the premium of inſurance. He deprecated the argument uſed by the Hon. Gentleman, that, before inquiry was neceſſary, we muſt convince merchants and underwriters that they were loſers. He would allow no ſuch grounds of argument. Succeſs might be the effect of good fortune, but certainly could not be ſet up as a defence for any neglect. He argued on the neglect reſpecting the Quebec fleet, from documents of a converſation held early laſt year between Mr. Pitt and the Canada merchants. He then came to the Jamaica fleet, which ſubject he ſtated as pointing out the greateſt neglect on the part of the Admiralty. In the ſame manner he treated the Mediterranean convoys; and both on general grounds, in particular and minute details, and direct inſtances, ſhewing that the protection to the trade had not been adequate. He ſtated one circumſtance that had not been mentioned before, reſpecting the fleet from Oporto, with 20,000 pipes of wine on board, to protect which, only one ſloop (the Flora) had been ſent; and ſo inſufficient a convoy did the merchants reckon that, they would not truſt their fleet with it. When ſuch convincing proofs as the complaints of the perſons moſt intereſted in the trade were laid before the Houſe, Mr. Grey thought they could not refuſe to go into an inquiry. If his Right Hon. Friend, upon an examination of the ſubject, failed in the proof of what he had aſſerted, then he muſt ſubmit to the cenſure of the Houſe for having made a charge which he was unable to maintain. If, on the other hand, it ſhould appear, that all thoſe complaints were well-founded, and that, in fact, there had been a want of attention on the part of the Admiralty; then miniſters ought to meet with the cenſure of Parliament, in proportion as they had neglected or miſapplied the reſources of the country. If they refuſed to grant the inquiry, it could only be upon one principle, namely, that they were conſcious of their own miſconduct, and were afraid to face an open inveſtigation; but though, by that means, they might avoid public conviction, yet the natural concluſion, which every unprejudiced mind muſt draw upon ſuch conduct, muſt be unfavourable to the miniſters. Mr. Grey concluded by preſſing the Houſe to go into ſo proper an inquiry.

Mr.

Mr. Brandling, member for Newcaſtle, ſaid the Newcaſtle trade was much better protected now than in former wars. Such, he could venture to aſſert, was the opinion of the merchants of Newcaſtle. He obſerved, that with whatever facility ſome Gentlemen might ſpeak in that Houſe, he always felt a great repugnance when he ventured to engroſs its attention: Upon the preſent occaſion, however, he felt himſelf in a manner compelled to ſay a few words. Since the ſubject had been diſcuſſed before, he found that a Gentleman in that Houſe, and a member for a place in the North of England, had written down to his conſtituents, to inquire whether they had any grounds of complaint againſt the Admiralty for want of convoys. He would not mention the Gentleman's name to whom he alluded, unleſs he had particular permiſſion ſo to do. [*Mr. Grey* ſaid he might mention the name.] Mr. Brandling then ſaid, he had received two letters from Shields and Newcaſtle, one of which ſtated, that Mr. Grey had written down to ſome perſons in Newcaſtle, to know whether they had any ground of complaint for want of convoys. His letter then went on to ſtate, that a meeting of ſhip-owners and merchants was held in conſequence of Mr. Grey's letter, and a paper was ſigned by fourteen of them, cenſuring the conduct of the Admiralty for their want of attention to convoys; and at the ſame time he wiſhed to ſtate, that another body, of ſixteen ſhip-owners and merchants, ſigned another paper, in which they declared themſelves perfectly ſatisfied with the protection which had been granted to their trade. If, then, the Hon. Gentleman (Mr. Grey) relied much upon the opinion of thoſe perſons who had cenſured the Admiralty, he had an equal right to rely upon the ſentiments expreſſed by thoſe who had, unſolicited by him, voluntarily come forward to give their teſtimony in favour of government. The Houſe, before they determined to which they would give the preference, would conſider a few facts. In the courſe of the laſt war, there were three ſhips of war ſtationed off Newcaſtle, for the purpoſe of protecting the trade. It was thought by many that this was an unneceſſary expenditure of the public money, becauſe it happened very frequently that thoſe ſhips were in port, and becauſe they thought the trade could be better protected by veſſels cruizing along the coaſt. In forming a judgment upon this ſubject, another point was neceſſary to be recollected, that above two hundred and fifty veſſels were conſtantly going between Newcaſtle, Shields, and London; that there were ſeveral cruizers ſtationed upon that coaſt, who protected the trade ſo effectually, that not one veſſel in that

that trade had been taken ſince the commencement of the war. Mr. Brandling concluded with a very high eulogium on the preſent adminiſtration, and hoped that God Almighty would continue to this country her happy conſtitution to the end of time.

Mr. Fox roſe to read a letter which he had omitted to read when he was up before; and he ſaid he wiſhed to read it then, in order that Gentlemen might have an opportunity of making any obſervations upon it that they thought neceſſary.—It was from a gentleman of the name of Baker, who ſtated that he had fitted out a veſſel with corn, which, by an order of council, was prohibited from ſailing without a convoy; that the veſſel was bound for Barcelona, and was obliged to wait ſo long for the convoy that the corn was ſpoiled.

Mr. Grey, in explanation, admitted that he had written down to the North, to make inquiries into the protection which they had received for their trade; but he had particularly deſired that they ſhould not ſend him any information, the authenticity of which was not fully aſcertained; and alſo demanding permiſſion to uſe the names of the perſons ſending him that information.

This occaſioned a few words from Mr. Burdon, who ſupported Mr. Brandling's argument.

The Chancellor of the Exchequer ſaid, that after what had fallen from various Gentlemen who had oppoſed the motion, particularly the Hon. Admiral, he did not think there was any neceſſity for him to trouble the Houſe much, if at all, upon this queſtion; but he conceived it to be a queſtion of ſo much importance, and one in which he took ſo much intereſt, that he found himſelf almoſt irreſiſtibly impelled to treſpaſs for a ſhort time upon the attention of the Houſe. He declared that he had no heſitation in avowing a total difference of opinion from the Right Hon. Mover. He thought it a duty incumbent upon him, independent of every perſonal conſideration, to give his negative to the motion; and he believed he might, without forfeiting any portion of that confidence with which he was honoured by the Houſe, take upon him to aſſert that more groundleſs charges againſt Government never were ſubmitted to Parliament. Scorning to ſhelter himſelf or his colleagues from the moſt public inveſtigation, when deemed neceſſary, he would not obtrude upon his auditors any apology, which ſome men of oppoſite political principles might conſtrue into a ſymptom of guilt. Conſcious, however, that there was not the ſmalleſt foundation for the propoſed inquiry, he was convinced that it ought to meet with reſiſtance from him, and thoſe with whom he acted,

becauſe no one of the accuſations had been ſubſtantiated. A committee of inquiry againſt public men was at all times a diſagreeable propoſition; but an inquiry, unfounded either in truth or reaſon, was on every occaſion both unjuſtifiable and dangerous; more eſpecially in time of war, when important information might by that medium be communicated to the common enemy.

Before he applied himſelf to anwer the particular charges which the Right Hon. Gentleman had advanced, he wiſhed to aſſert ſome principles, and to lay down ſome propoſitions, in which, if he was right, the diſcuſſion of the other parts of the argument would hardly become neceſſary. Though the protection of the trade of this country was of great importance, there were other objects that called for the attention of miniſtry, which were ſtill more important in their conſequences. A variety of offenſive meaſures were to be planned and executed; large fleets were to be kept in certain places, and upon particular ſtations, without which convoys would be but of little if of any uſe. The miniſter of this country would conſult very little indeed the intereſt of the people, if, for the purpoſe of protecting trade, he was to fritter down and ſubdivide the naval force of the country into convoys, inſtead of employing it in the great and important objects of the war: The natural conſequence of ſuch conduct muſt inevitably be the deſtruction of that very commerce which they had affected to protect. The fair queſtion, therefore, to put to the Houſe was, whether, conſidering the great and numerous objects which preſſed upon the attention of miniſters ſince the commencement of the war; whether, conſidering the defenceleſs (comparatively ſpeaking) ſituation of the country when the French ſo ſuddenly and ſo unjuſtly declared war againſt us, and conſidering alſo the peculiar nature of the war itſelf; whether, after having reflected upon all thoſe points, and then looked to the degree of protection which the trade had actually received, any ſerious blame could fairly be imputed to Adminiſtration?

The Right Hon. Gentleman, from an examination of Lloyd's books, had ſtated the number of Engliſh ſhips captured by the enemy, ſince the commencement of the war, to be 217. If he (Mr. Pitt) were himſelf to ſtate the number, he had no ſcruple to ſay, he ſhould make it rather larger, and eſtimate it at 236. The number of ſhips which had been taken by the Engliſh from the French amounted to 233 during the ſame period. When Gentlemen reflected upon the great and widely-extended commerce of this country, ſcattered over every part of the world; when they recollected the circumſtance mentioned

by the Hon. Gentleman who ſpoke laſt, that 250 veſſels went to and from the ports of Newcaſtle and Shields every month, employed in the coal trade, the moſt dangerous and the largeſt of all our coaſting trade; and when they found that only 236 ſail in the whole had fallen into the hand of the enemy, in the firſt year of the war, the only ſentiment in the Houſe, and in the kingdom, muſt be that of ſurpriſe that ſo ſmall a number had been captured. That ſurpriſe muſt be much increaſed, when Gentlemen called to mind the mode of carrying on the war adopted by the enemy, who, inſtead of conſolidating their naval force into fleets, for the purpoſe of conteſting with us the ſuperiority of the ſea, inſtead of attempting any great offenſive operations, had divided their marine, with the ſingle object of annoying our commerce. Beſides this, the Houſe would not forget the ſituation in which this country ſtood at the commencement of the war; our naval and military force reduced to a ſmall peace eſtabliſhment, truſting to the good faith of the powers of Europe for the continuance of peace, when the French, in defiance of treaties, and in violation of juſtice, had forced us into the war. But when, added to all this, it appeared, that after in a very effectual degree providing protection for our trade, and equipping three formidable fleets, *viz.* that in the Channel, in the Weſt Indies, and in the Mediterranean, we had actually taken from the enemy an equal number of ſhips from their narrow and mutilated trade; when all this appeared, miniſters, ſo far from deſerving cenſure, would, in his opinion, be acknowledged by every candid man to be entitled to the applauſe of their country. He deſired not to be underſtood to aſſert or to contend, that in every inſtance the moſt complete protection had been provided for the trade of the country; but he meant to contend, that, conſiſtently with the other great plans which called for the exertions of the Admiralty, every poſſible care had been taken for the preſervation of our commerce.

With regard to the allegations that had been advanced, the preſumptions were all of them highly in favour of Government, it evidently appearing, that they had in no inſtance been remiſs in their duty to the public: And that the captures, the recital of which had been dwelt on with ſo much pleaſure by the Gentlemen on the oppoſite ſide of the Houſe, ought to be attributed entirely to an ungovernable ſpirit of raſhneſs and temerity, incited by the hopes of incredible profits, ſhould thoſe who adventured elude the enemy. Thus had the merchantmen been tempted to abandon the regular convoys; and thus aroſe the frivolous grounds of complaint. In no inſtance, therefore, could the bittereſt calumny, or aggravation of facts,

eſtabliſh any criminal negligence or deficiency againſt the miniſters of this country.

Gentlemen had exclaimed with ſome degree of exultation and triumph—Are there no inſtances of complaint? He readily admitted, that a few individuals had evinced a ſpirit of diſcontent; but he wiſhed to learn, in what war had commercial grievances been ſo few and ſo frivolous, comparatively ſpeaking, as in the preſent? If the annals of this country were examined, it would be found, that no commencement of any war had been ſo remarkable for the vigilance and activity of Government, and for the protection afforded to Britiſh merchantmen trading to all quarters of the world. This aſſertion was corroborated by the concurrent teſtimonies of the higheſt mercantile authorities, both within and without thoſe walls; and he was conſequently aſtoniſhed how any deſcription of men could allow themſelves to be ſo far biaſſed by the political prejudice or paſſion of the moment, as to ſuffer the detection or expoſure of a multiplicity of arguments, which they well knew were founded in error.

Were it neceſſary or proper for him to make a public avowal of his opinion reſpecting the conduct of the Admiralty Board, which had been ſo ably vindicated by his Hon. Friend (Mr. Pybus), he would affirm, that their genius for warfare was adequate to every critical emergency. For ſelf-defence, they had diſplayed uncommon powers; and their manly and vigorous exertions had tended to check the inſolence of the enemy, who, in ſome inſtances, had annoyed our trade. If Gentlemen were, however, deaf to his aſſertions, he could produce an invincible mode of argument. Prejudice or paſſion could not ſo far operate on the judgment of the inſurer or underwriter, as to make him deny his profits; and by a reference to them, he had no objection to reſolve all queſtions or doubts on the ſubject.

The Chancellor of the Exchequer ſaid, in the appointment of convoy, many different circumſtances happened, ariſing from a variety of cauſes, which occaſionally rendered it neceſſary ſometimes to delay, ſometimes to alter, and even ſometimes entirely to ſtop, the ſailing of the convoy. Thoſe who ſuppoſe, that when the application was made by merchants for a convoy for a fleet to a given place, and the veſſel was appointed for that purpoſe, the whole difficulty was over, were much miſtaken between the time of the appointing and ſailing of a convoy. It might happen that the enemy had altered the ſituation of a part of their force, which might render it the duty of the Admiralty to give it a larger convoy, or perhaps to prevent the ſailing of it: Therefore it frequently happened

happened that what appeared to the merchants to be neglect and inattention on the part of the Admiralty, was in fact the ſtrongeſt proof poſſible of their care and vigilance; nor could they in all caſes communicate to the merchants the cauſe which induced their conduct, without letting them into their council, and ſtating circumſtances which perhaps the intereſt of the country called upon them to conceal. To illuſtrate this argument, he would mention a caſe which had occurred in the preſent war, and which he might now ſtate without impropriety. A convoy had been appointed for ſome merchant-ſhips into the Mediterranean; that convoy had been appointed under the idea that Lord Hood would arrive before it in that ſea. It ſo happened, that it became neceſſary to take a part of the fleet which was to have gone with Lord Hood, for the purpoſe of ſending it to the Weſt Indies; it was therefore neceſſary to prevent the convoy from ſailing, as it would probably have fallen into the hands of the enemy when it arrived in the Mediterranean, it being impoſſible for Lord Hood's fleet to be there in time to protect it.

Gentlemen had talked about convoys, as if it were poſſible to ſend one with every trading veſſel that ſailed. They would not ſurely contend, that, inſtead of forming the three great fleets he before alluded to, it would have been more proper to have employed all thoſe ſhips as convoys: It would not be aſſerted, that it was improper to have a reſpectable Channel fleet, which, while it protected the coaſt of this country from inſult, actually defended the trade in a more effectual manner than convoys: It would not be contended, that it was wrong to ſend a fleet to the Weſt Indies, and another to the Mediterranean. To ſend one to the latter was peculiarly neceſſary, in order to afford the Spaniards the means of exerting their force; becauſe, though Spain, when completely armed, is a very formidable naval power, yet ſhe has not the means of calling all her powers into action immediately, and on the ſudden. If, then, it was admitted, that the conduct of the Admiralty in this point was juſtifiable and prudent, with what propriety could they be accuſed of neglecting the trade of the country? If the preparations of the kingdom had happened to have been in a ſtate of greater forwardneſs, it might in ſome inſtances have been eligible to have granted larger convoys; but, after all, the Right Hon. Gentleman had not been able to produce one inſtance where a convoy had been refuſed, or where any veſſel had been captured when under convoy. This circumſtance was more in favour of Adminiſtration, when compared with the events which occurred at the commencement of the laſt French war. It might be ſaid, that at that time

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England had to contend with ſeveral naval powers, and that now ſhe had only France to fight againſt, beſides having the aſſiſtance of thoſe powers; but when Gentlemen conſidered the different principle upon which that war was carried on from the preſent; when it was recollected, that when France declared war againſt us, we were at war with America, and conſequently in a ſtate of warlike preparation, but that, on the commencement of the preſent war, we were wholly unprepared; when thoſe circumſtances were conſidered, he was ſure they would counterbalance the ſuperior advantages we were ſuppoſed to have in the preſent war, as far as this point went.

The Chancellor of the Exchequer obſerved, that the Right Honourable Gentleman, and thoſe who ſupported him, had relied with great appearance of triumph upon ſome memorials which had been preſented to the Board of Admiralty by merchants who conceived their convoys had not been appointed with ſufficient expedition. The Right Hon. Gentleman had commented upon ſome warm expreſſions which were contained in ſome of theſe memorials, and had ſaid that the Board of Admiralty ought to have felt indignation at ſuch language being held to them. He was very ſure that the Admiralty would feel no indignation. He had ſeen thoſe memorials before, and had felt no ſentiment of that kind, becauſe he made every allowance for men acting under the impulſe of diſappointment and loſs; but theſe few ſolitary inſtances could not outweigh the general teſtimony which Adminiſtration had received in favour of their conduct. Members of Parliament, as reſpectable for the private worth of their characters as for their high commercial ſituations, had come forward, and given the moſt diſtinct and unequivocal proof of their approbation of the meaſures adopted by the Admiralty: But the evidence which went beyond all other, was that of the rate of inſurance; that was a teſtimony which could not err. If he was founded in all thoſe obſervations, which he thought he was, it would not be neceſſary for him to go into a detailed anſwer to the Right Hon. Gentleman's arguments about particular branches of the trade. A few obſervations, however, he would make. The firſt branch of trade which the Right Hon. Gentleman had alluded to, was that to the Baltic. Upon that ſubject, he had, with the utmoſt candour and frankneſs, avowed, that he was completely miſinformed: At the ſame time, however, that he approved of the Right Hon. Gentleman's candour in making that confeſſion, he could not help hoping, that the other aſſertions which he had made upon this ſubject, were not upon the ſame authority which had ſo completely miſled him with reſpect to the Baltic fleet; but even if they were upon other

other authority, the Right Hon. Gentleman muſt forgive the Houſe, if they felt ſome little inclination to doubt the authenticity of his information, after having been once ſo completely miſtaken in a particular point.

With reſpect to the Quebec trade, the Chancellor of the Exchequer ſaid, he was free to confeſs, that ſome very important ſtatements had been laid before Government, by the Canada merchants, relative to the different articles which were demanded in Upper and Lower Canada, and as to the period when it would be neceſſary that they ſhould be there, in order to be in time for the Indian fairs. He certainly could have wiſhed that the Admiralty had been able to have afforded a larger convoy; but, under the circumſtances of the war, and the general preſſure upon miniſters for great naval exertions, that convoy could not be given to the extent and force that he wiſhed; that was with reſpect to the outward-bound fleet. As to that coming home, the veſſel appointed to meet them at the Iſle of Bicque, for the purpoſe of convoying them to this country, did actually go to the deſtined place of rendezvous within the time appointed, and was there informed, that the trading veſſels had ſailed ſome time before without convoy.

The next branch of trade mentioned by the Right Hon. Gentleman, had been that to the Weſt Indies. Here alſo he was ready to admit, that, if it had been convenient, he ſhould have been glad that the great Weſt India fleet ſhould have had a larger convoy; but as things were at that time ſituated, it was utterly impoſſible.

The trade to the Mediterranean had alſo afforded ſcope for Gentlemen to make acrimonious obſervations. It was true, that, in conſequence of ſome unavoidable delays, the trade deſtined to the Italian and Spaniſh fairs had been loſt. No man lamented that circumſtance more than he did; but at the ſame time, could the blame be attributed to the Board of Admiralty? The firſt delay was occaſioned by the requeſt of the merchants themſelves, becauſe ſome of the ſhips from Exeter had not come to the place of rendezvous. Another delay of ſome weeks was cauſed by contrary winds; and after they had ſailed, a report coming to Lord Howe, then refitting in Torbay, that the enemy's fleet was out, he ſent immediately to order back this convoy, leſt they ſhould fall into the hands of the enemy. All theſe delays were unfortunate undoubtedly, but certainly were not the fault of Government. It had been ſaid, that theſe merchants were ſo much diſſatisfied with Government, that they would not prepare goods for the fairs this year, leſt they ſhould meet with a ſimilar diſappointment. Such might have been the language of thoſe merchants,

chants, when giving way to their immediate feelings upon their loſs; but ſince that time they had ſettled with the Board of Admiralty reſpecting their convoys for this year, and ſuch arrangements had been made as would, he hoped, prevent the repetition of ſimilar misfortunes. The Chancellor of the Exchequer obſerved, that he had thus taken a view of the various branches of our trade; and though he did not contend that on no occaſion individual loſſes had not been ſuſtained, yet he hoped he had ſhewn that thoſe loſſes could not be imputed to the neglect of the Board of Admiralty; they had ariſen partly from accident, and partly from the impoſſibility of our exerting our whole marine force at ſo early a period of the war; but now, when the navy eſtabliſhment was ſo much increaſed, there was every reaſon to hope that a repetition of loſſes, ſmall as theſe comparatively were, might be avoided.

Having ſtated the allegations produced by the oppoſite party, and replied to them as they reſpectively occurred, the Chancellor of the Exchequer added the following remarks: If the mercantile and monied intereſts continued to repoſe confidence in Government; if, when comparing the preſent with former times, they found much more to praiſe than to cenſure; if the good opinion which they entertained, was fortified by the moſt ſucceſsful commercial enterpriſes ever remembered at the commencement of any war; then the preſumption was highly honourable to thoſe entruſted with the government of this country. All language of exaggeration, therefore, which tended to inflame the minds of a few individuals, was futile in the extreme. Every exertion, within the compaſs of human ability, had been made by our Board of Admiralty and by our naval commanders: And if thoſe who murmured againſt Government appeared diſſatisfied that the various fleets had not been more ſtationary, ſubdivided, or frittered away, to the danger of trade, he rejoiced at the object of their grievance: If they exulted in ſome loſſes in the commercial world, the triumph or conſolation of ſuch men excited by no means, on his part, the ſpirit of envy. He ſurveyed their motives with a calm indifference, ſo far as regarded his perſonal ſecurity; but it became him to ſtand forward with the moſt reſolute firmneſs, when they advanced falſe accuſations againſt his friends. It afforded him no ſmall portion of pride and exultation to learn, from the debate of the evening, that, notwithſtanding the moſt indefatigable induſtry, notwithſtandingGentlemen explored the beſt ſources of information, notwithſtanding they boaſted of thoſe ſources as pregnant with many accuſations of a criminal tendency againſt Government, the whole had fallen to the ground; every charge which had been advanced having been completely

completely refuted. He concluded with declaring, that he ſhould give his negative to the motion.

Mr. Fox, in reply, obſerved, that almoſt every fact he had ſtated had been admitted; and that the few which had been queſtioned, he was ready to prove, if the Houſe would agree to go into the inquiry. From Exeter, Leeds, Norwich, and other manufacturing towns, he had produced information which could not be denied, that miniſters had made promiſes to the manufacturers which they had not kept; that miniſters had not given the notice which they ought to have given, when they found that the convoys could not be ready at the times appointed; that ſuch loſſes had been ſuſtained as deterred manufacturers from preparing goods for foreign markets, which they had been accuſtomed to ſupply; and that the conſequent diſtreſs had not been confined to the opulent, but had fallen heavily on the poor, many of whom were now crowding the workhouſes, and who, if their employers had not been thus diſappointed, would have been at this time earning a reſpectable ſubſiſtence for themſelves and their families. Inſinuations had been thrown out againſt the mode in which his information had been obtained. On a matter of public importance, it was ſurely no crime either to aſk for, or to give information. To thoſe who had exerted themſelves to obtain information for him, both he and the public were under obligation. The greater part of it, however, had been ſent him voluntarily. The overbearing influence of the Crown, Mr. Fox ſaid, was ſuch, as to render it extremely difficult to obtain information on any ſubject by which the credit of miniſters might be affected; and if that influence ſhould go on increaſing, it would be vain to attempt any public inquiry into the conduct of Government. He had found men offering themſelves to communicate facts which they well knew, who would not come forward to prove what they communicated. He had heard that a man, moſt reſpectable in his ſituation (the maſter of Lloyd's Coffee-houſe), had been told, ſomewhat in the way of a menace, that it was improper for him to ſuffer any information to go from his houſe which might be employed againſt miniſters. Nay, he had heard of men valuing themſelves on the dexterity with which they had endeavoured to miſlead, by giving information which, when it came to be examined, would be found to be falſe. With all theſe difficulties he had proceeded in the inquiry, and was then ready to prove the charge which he had made, and ſubſtantiate it by evidence at the bar of the Houſe.

Mr. Alderman Newnham ſaid, his own opinion, and the opinions of thoſe with whom he was accuſtomed to converſe,

were, that the convoys were inſufficient; and therefore he ſhould vote for the inquiry, that it might be fairly aſcertained whether or not miniſters had done as much as they had it in their power to do.

The Houſe divided on Mr. Fox's motion:

Ayes 48—*Noes* 202—*Majority* 154.

Adjourned.

HOUSE OF LORDS.

WEDNESDAY, *February* 19.

The Land Tax, Malt Tax, American Intercourſe, and Scots Diſtillery Bills, were paſſed through a Committee, and ordered to be reported the 20th.

Mr. Hobart brought up from the Commons the bill, intituled, "An Act to repeal the Duties on Gloves."

SLAVE TRADE.

The Order of the Day for proceeding further in the examination of evidence on the Propoſitions from the Commons, for the gradual Abolition of the Slave Trade, was, on motion, poſtponed to this day ſe'nnight.

FRENCH PROPERTY IN THE FUNDS, &c.

The Bill for arreſting the Property of Perſons in France in our Funds, &c. was, on the motion of *Lord Grenville*, ordered to be read a ſecond time on Friday the 21ſt.

MUTINY BILL.

The Duke of Norfolk, on the motion for this bill being referred to a Committee, begged to make a few obſervations, preparatory to a meaſure which his Grace ſhould offer to the conſideration of the Houſe in that ſtage of the buſineſs. A number of Heſſian troops had been lately diſembarked, and landed in the Iſle of Wight, and were now there, as he underſtood, under no ſort of reſtraint, without diſcipline, and without being ſubject to the military laws of this country. They were landed without the conſent of Parliament, and remained unſanctioned by any act of the legiſlature. This he conſidered as highly improper; and therefore it was his wiſh to introduce into the Mutiny Bill a clauſe, founded on the neceſſity of our preſent ſituation, to legalize the Heſſians being in theſe realms, and to render them, as had been done in the caſe of the Scotch Fencibles, amenable to the military laws of Great Britain, ſo long as they continued there.

Earl Spencer aſſured their Lordſhips, that no man was more firmly attached to the conſtitution than he was, but he thought ſufficient information had been given in his Majeſty's meſſage to that Houſe, with reſpect to the neceſſity of landing the

troops alluded to; he declared that he ſhould be the firſt to oppoſe any Act of Parliament which ſhould legalize the introduction of foreign troops to guard this country, while the Britiſh forces were fighting the battles of Germany. He thought that the Mutiny Bill was a very improper manner of introducing the amendment which the Noble Duke propoſed, and that the propoſition ſhould be made, as all propoſitions of a new and extraordinary nature hitherto have been made, firſt by a notice to the Houſe, and then by a motion, in whatever manner the Noble Mover thought beſt adapted to his purpoſe. For his own part, he conceived, that to make the Mutiny Bill a conveyance to *legalize* the introduction of foreign troops into this kingdom, and to warrant their continuance there, was not conſtitutional; and on that ground alone he ſhould wiſh the Noble Duke not to preſs the motion.

The Duke of Norfolk replied, that if miniſters would give him any aſſurance, that they meant, in any ſhape, to ſanction the landing of theſe troops, he ſhould not perſevere; but if it was intended to let the matter reſt as it did at preſent, he ſhould certainly proceed, and take the ſenſe of the Houſe on his motion.

Lord Grenville thought it would be better to ſuffer the bill to go into a Committee; and their Lordſhips might uſe their diſcretion as to any clauſes that might be propoſed. He had another reaſon for wiſhing this mode to be adopted, which aroſe from the conſideration of a ſubject which ſtood for diſcuſſion on Friday next; namely, the queſtion of legality in landing the Heſſian troops. Poſſibly the event of that debate might facilitate the diſcuſſion of the ſubject of the Noble Duke's motion; and perhaps it might then appear more eligible to bring in a diſtinct bill for that purpoſe.

Lord Thurlow confeſſed himſelf to be unable to give his opinion on this very important queſtion at preſent, as there was not before their Lordſhips an iota of information on which to form an accurate judgment. He was ſure the Noble Duke had no intention to take the Houſe by ſurpriſe, and thought it more adviſeable that this ſubject ſhould come before their Lordſhips on a future day; of which due notice ſhould be given: In the interval their Lordſhips would beſtow their attention on it. If the meaſure intended by the Noble Duke was a juſt one, the only true, proper, and conſtitutional method that offered, was to move for a bill, and to give previous notice of what were the principal heads of that bill. By theſe means the legality of landing the troops would come into open and fair diſcuſſion; whereas by the preſent mode, a new matter of infinite importance, which in a great meaſure altered

the law of the land, was to take its origin by way of amendment to an old law, though it was a law annually paſſed.

The Earl of Lauderdale ſaid, that, as a friend to the conſtitution, and jealous of the liberty of his country, he could not conſent to any meaſure which tended to the infringement of either. He attacked miniſters for bringing into this country foreign troops, contrary to the ſpirit and letter of the conſtitution. He inveighed warmly againſt that ſyſtem of government which reſiſted all inquiry into the real cauſe of the landing of theſe troops, and wondered much at their refuſing to ſay for what purpoſe the Heſſians were intended, to what expedition their aſſiſtance was requiſite, how long they were to continue, what their numbers were, and whether thoſe numbers were to be increaſed? If the object be, that Britiſh ſubjects are to be ſent to the Continent to fight the battles of the Allied Powers, and foreign troops are to be brought into Great Britain for the internal defence of the country, his Lordſhip declared he would oppoſe ſuch a meaſure to the utmoſt.

The Earl contended, that foreign troops in this country, unſanctioned by Parliament, were dangerous innovators. They were ever held to be ſo, and at this moment particularly to be dreaded. His voice, he ſaid, was for the liberties of the people, and the ſecurity of the rights of mankind; and he could not ſee thoſe rights invaded, without doing his duty, in oppoſing that which he deemed to be dangerous. He thought it rather ſtrange, and indeed ſuſpiciouſly to be apprehended, that his Majeſty's miniſters ſhould prefer having foreign troops to protect this realm to the native citizens of the country; and he could not but blame that meaſure which ſent Engliſhmen to ſhed their blood in defence of Germany, while foreigners were imported to guard the realms of Great Britain. He therefore thought that ſomething ſhould be done which might bring theſe foreigners under the ſubjection of the military laws of this country; at preſent, they were not amenable to them. He wiſhed to know, what was the purport of their taking up their reſidence in the Iſle of Wight, for Parliament was wholly uninformed on the ſubject. There was not a ſingle document on their Lordſhips' table to prove to what end their landing pointed, or what benefit this country was to reap from their arrival.

Earl Stanhope loudly condemned the landing of foreign troops in this country, for any purpoſe whatever; for, notwithſtanding the falſe alarm which miniſters had ſo artfully propagated with reſpect to the diſaffected people of this country, they had not been able to bring the name of any one before the Houſe.

The

The Earl ſaid, he was clearly of opinion, that notice ſhould always be previouſly given before any matter of importance was agitated, that the Lords might be duly ſummoned, according to the uſage of Parliament. In reſpect to the preſent buſineſs, he thought his Majeſty's miniſters acted moſt unconſtitutionally. He had heard it averred by a miniſter, that the landing foreign troops in this country, without the conſent of Parliament was conſtitutional; and he had heard it treaſonably aſſerted, that this was the prerogative of the Crown. He called it treaſonable, and to prove that he was warranted in uſing that expreſſion, he would define what Judge Blackſtone ſaid of treaſon, *viz.* It was a felony, in which the perſon who killed the traitor was juſtifiable—Juſtifiable homicide, ſaid the Noble Earl—But if the traitor killed the citizen, who in ſuch caſe attempted his life, it was murder.—For his own part, he ſaid, he would defend the liberties of the people againſt all traitors to the conſtitution, and all treaſonable practices, at the hazard of his life and fortune—and he cared not who they were.

Lord Grenville ſaid, he did not know to whom the Noble Earl alluded, when he ſpoke of treaſonable practices. He agreed with him that traitors ought not to ſurvive their treaſon to the conſtitution. He was convinced that there were in this country certain diſaffected ſubjects, who would readily pull down that venerable fabric which was the envy and admiration of the world; but he ſaw no neceſſity for enacting new laws for its protection, thoſe already in force being ſufficient to puniſh their impotent attempts to violate it. As to the ſubject of the Heſſians being landed, he ſhould ſoon have an opportunity of juſtifying that meaſure on conſtitutional grounds.

The Earl of Lauderdale called on the Noble Secretary of State to come forward boldly, and point out the diſaffected perſons to whom he alluded. He ſuggeſted the danger of ſuch myſterious alluſions, and thought it incumbent on the Noble Secretary of State to give that Houſe all the information which his official ſituation enabled him to do; for although they were not all confidential ſervants of the Crown, they were all equally the guardians of the conſtitution. He thanked God that his conſcience was clear: But, if ſuch men exiſted as the Noble Lord had deſcribed, why were they not taken into cuſtody, why were they not proſecuted, and why had not Parliament inſtituted a ſtrict inquiry into the ſubject?

Lord Grenville replied, that their number was inſignificant, and their cauſe weak; and that as the preſent laws of the land were ſufficiently adequate to puniſh the offenders, it was totally unneceſſary to draw up and paſs a new Act on the ſubject.

ject. Some of the inferior delinquents had already been brought to punishment by their country.

The Duke of Norfolk withdrew his Amendment, as he understood the subject was to be argued on Friday, which he had not been aware of before he heard it from a Noble Earl (Stanhope).

HOUSE OF COMMONS.

WEDNESDAY, *February* 19.

Upon the question for the second reading of the St. Alban's Bill,

Mr. Buxton moved an Amendment, that the words, "this day six months," should be inserted instead of the word "now."—After a short conversation, the motion was withdrawn, counsel were heard, and witnesses examined, against the Bill; after which the debate was adjourned to the 20th.

Adjourned.

HOUSE OF LORDS.

THURSDAY, *February* 20.

Heard counsel in respect to the claim of the Barony of Clinton, and adjourned the Committee until one o'clock next day.

The Loan Bill, and two Naturalization Bills, received the royal assent by commission. The commissioners were Lord Kenyon, the Bishop of London, and Lord Grenville.

Adjourned.

HOUSE OF COMMONS.

THURSDAY, *February* 20.

Huddersfield Canal Bill was read a second time, and committed for Thursday the 27th. A petition was presented against it.

ST. ALBAN'S CANAL BILL.

Mr. Bingham moved, that this Bill be committed.

Mr. East, Lord Carysfort, Mr. Serjeant Watson, and Mr. Powys, spoke against it; and Mr. Stanley, Mr. Baker, and Mr. Wyndham, in favour of it.

Mr. Speaker then put the question, whether this Bill be committed? on which the House divided, when there appeared,

For the Commitment	23
Against it	24
Majority *against* the Bill	1

HOUSE

HOUSE OF LORDS.

FRIDAY, *February* 21.

The royal aſſent was given by commiſſion to the Land Tax, Malt, Britiſh and Foreign Spirits, Sugar, Marine Mutiny, and American Intercourſe Bills.

TRIAL OF WARREN HASTINGS, ESQ.

Lord Sydney ſaid, he was extremely ſorry to have occaſion to riſe to propoſe any thing that might tend to the further delay of the trial of Mr. Haſtings; but knowing from the beſt authority, that Marquis Cornwallis was ſo much indiſpoſed, that it would be impoſſible for him to attend Weſtminſter Hall on Monday next, he ſtated what had paſſed at an interview which he had that morning had, and ſubmitted to their Lordſhips, whether it would not be proper to apprize the Houſe of Commons of the circumſtance, to poſtpone their proceeding to the Hall on Monday the 24th, if they did not take *his* Lordſhip's depoſitions in private.

Earl Stanhope ſaid, the propoſition of the Noble Lord would defeat the ends of juſtice, and revolt the minds of every friend to public proceeding in criminal caſes. He totally diſapproved of examining witneſſes in private: He thought that the Noble Marquis ſhould be examined before the court, that the parties might have an opportunity of croſs-examination.

Lord Hawkeſbury, the *Duke of Norfolk*, *Lord Mansfield*, and other Noble Lords, agreed that the Commons might, if they pleaſed, proceed in the trial without waiting for the attendance of the Noble Marquis, though they would, no doubt, be glad to avail themſelves, as well as Mr. Haſtings, of his evidence.

Lord Kenyon ſaid, that going down to the Hall without the proſpect of proceeding, he hoped would not be adopted by their Lordſhips, as it would ſo materially interfere with the buſineſs of the court in which he had the honour to preſide, where a greater number of cauſes ſtood for trial than it was probable the limited number of days would permit the court to go through. Mr. Haſtings had applied, though he had cloſed his defence, to be permitted to avail himſelf of the evidence of Lord Cornwallis, which had juſtly been granted him; an application, in his mind, extremely natural on the part of Mr. Haſtings, and in every point of view proper to be granted. The Managers for the Commons, on the other hand, had declined proceeding until Mr. Haſtings had finiſhed his defence, which they were fully entitled to do. As, therefore, it was probable an application might be made for further delay,

ference to the Bill of Rights that his Majeſty could not maintain a ſtanding army in the kingdom without the conſent of Parliament, and that by the Act of Settlement paſſed in the reign of King William, no foreigner could hold an office of civil or military truſt. It remained for him to call their Lordſhips' attention to the Mutiny Act, a Bill which the Houſe well knew was paſſed every year for the purpoſe of providing for the diſcipline of the army. In that act, they would not be able to diſcover any recognition of the Heſſian troops, and in fact, they were not, while in this kingdom, in the eye of the law, or in the view of the conſtitution, conſidered as ſoldiers, or men under military command.

Having thus ſtated the law as it ſtood reſpecting the power of the Crown to maintain a ſtanding army, the Earl proceeded to mention the various precedents of the conduct of Parliament and of the Legiſlature relative to the ſubject in queſtion, to be found in the Journals and in the Statute Books, all tending to ſhew the jealouſy with which friends to the conſtitution had at all times regarded every incident that ſeemed in the ſmalleſt degree likely to affect its fundamental principles in this particular. The firſt caſe he would mention, he ſaid, was that of 1745-1746. In 1745 an invaſion had been threatened, and the King ſent a meſſage to Parliament, ſtating that foreign troops had been ſent for, for the protection of the kingdom, but that they had not yet arrived. In the alarm and danger of the moment, no notice was taken; but the next year the conſtitutional jealouſy of Members of Parliament was awakened to the conſequence of the meaſure, and ſeveral of their Lordſhips' anceſtors entered a ſtrong proteſt on the Journals expreſſive of their ſenſe of the proceeding, which they declared to be highly illegal and highly unconſtitutional. In 1756 it was deemed neceſſary to ſend foreign forces to America, and his Majeſty's miniſters thought fit to give notice to Parliament accordingly. In 1775, miniſters wiſhed to ſend foreign troops to garriſon Gibraltar and Mahon, and landed them in England with that object, juſtifying the meaſure under the ſubterfuge that Gibraltar and Mahon were without the kingdom; but the evaſion was ſcouted, and a Bill of Indemnity brought in, which paſſed the other Houſe of Parliament, but was loſt in that in conſequence of the oppoſition of the late Marquis of Rockingham; who objected to the Preamble, which began with ſaying, "Whereas *doubts* have ariſen, &c." whereas the Noble Marquis contended, that no doubts had ariſen, but that it was a clear conſtitutional principle, that the Crown had no right to land foreign troops in the kingdom without the conſent of Parliament. Thoſe Noble Lords who had ſupported the Marquis of Rockingham on that occaſion, the Earl ſaid, he

truſted

truſted for the ſake of their own conſiſtency would ſupport his motion. The next precedent to which he would call their Lordſhips' attention was that of 1782, which he explained. The precedent of 1784 was, when the Heſſian troops brought home from America were landed in the Iſle of Wight, in conſequence of the river Weſer being frozen, which rendered it impoſſible to ſend them to their own country till a thaw took place. The Earl ſtated what had been the proceeding in that caſe, and ſhewed that his Majeſty's miniſters brought down a meſſage to the Houſe, informing Parliament of the circumſtance and of its cauſe. There was one precedent which he had accidentally forgot to ſtate in its proper place, and therefore he would then mention it; it was a reſolution of the Houſe of Commons in the year 1641, in theſe words—"Reſolved, that any perſon who ſhall recommend to his Majeſty to employ foreign troops within this realm ſhall be deemed and adjudged an enemy to the conſtitution and the country, and be puniſhed as ſuch."

Having gone through his liſt of precedents, the Earl proceeded to comment upon the reſult. He contended, that the caſe of the Heſſians was more ſtrong than any of thoſe to which the precedents that had been cited referred. He argued ably to ſupport this aſſertion, and clearly ſhewed, that if the Crown had the prerogative to introduce foreign troops into the kingdom without the conſent of Parliament, it might lead to the moſt dangerous and fatal conſequences. However harmleſs ſuch a prerogative might be in a mild monarch like his preſent Majeſty, a vicious prince might one day fill the throne, and, under authority of this prerogative, at his pleaſure overrun the kingdom with hoſts of foreign troops, and by their means annihilate every privilege and deſtroy every right which Engliſhmen enjoyed under the Britiſh conſtitution. He therefore hoped the Houſe would concur with him in the opinion that a Bill of Indemnity was called for by the occaſion, to ſave the conſtitution from infringement in one of its moſt eſſential points; at leaſt he flattered himſelf he ſhould have the ſupport of thoſe Noble Lords whoſe names appeared to the Proteſt of 1775, becauſe they could ſcarcely be ſo inconſiſtent as to deem that conſtitutional, which, nineteen years ago, they in ſuch ſtrong terms declared to be highly unconſtitutional. Whenever a conſtitutional queſtion was brought into diſcuſſion, the Earl ſaid, he conceived the moſt ſafe and ſure mode of examining and aſcertaining its merits, would be to recur to the firſt principles of the conſtitution, and ſee how it ſtood with regard to thoſe principles. In what he had taken the liberty to ſtate on the ground of law and precedent, he hoped he had proved, that as by law the King could not introduce foreign

troops into the kingdom without the conſent of Parliament, ſo by precedent, that the Houſes of Parliament, and moſt eſpecially that Houſe, had uniformly entertained a perpetual conſtitutional jealouſy on the ſubject, and had never let an occaſion of the kind eſcape their obſervation and paſs without their notice. He truſted, therefore, that their Lordſhips were ready to manifeſt their vigilance in an equal degree, and to adopt his propoſition.

Before he ſat down, he begged leave once more to remind their Lordſhips, that he put all conſideration of the expediency of landing the Heſſian Troops, then in the Iſle of Wight, entirely out of the queſtion: Caſes might undoubtedly occur, in which it might be juſtifiable, and even laudable, in miniſters to riſque a deviation from law and the conſtitution; indeed, poſſibly the preſent might be one of them, but as often as the neceſſity preſented itſelf, it would be for the wiſdom of Parliament to decide on the conduct of miniſters, and when they deemed it to have been expedient, a Bill of Indemnity could alone cloſe and cure the wound, that had thus unavoidably been inflicted on the conſtitution.

The Earl apologized for having ſo long troubled the Houſe, and conſcious, as he ſaid he was, of his own inability, lamented that a ſubject of ſo much importance ſhould have fallen into ſuch weak and feeble hands, ſince it could have been ſo much more ably ſupported by others. His Lordſhip concluded with bringing forward a ſhort Bill of Indemnity, which being put in the form of a Motion was read from the Woolſack.

The Earl of Albemarle then moved, That the Bill be read a ſecond time on Monday next *.

Lord Spencer wiſhed to underſtand how the queſtion ſtood, as he did not correctly conceive what the queſtion was.

Lord Hay (Earl of Kinnoul) made a ſimilar obſervation.

Earl Stanhope explained, that the Bill having been read a firſt time, the queſtion before the Houſe was, that it be read a ſecond time on Monday next.

The Earl of Lauderdale roſe to ſpeak to order. The queſtion, his Lordſhip ſaid, was through accident irregularly put. It ſhould have been, "That this Bill be read a ſecond time;" and the time when it ſhould be read a ſecond time, put, after that queſtion was diſpoſed of, as a diſtinct and ſeparate queſtion. This correction was admitted on all hands, and the motion ſtood, "That this Bill be read a ſecond time."

Earl Spencer then ſaid, that he was not preſent when the Noble Earl gave notice of his motion; but he was not diſ-

* The Earl of Albemarle is lately come of age, and is the only ſon of the former Earl (the brother of a late Biſhop of Exeter, and of the recently deceaſed Lord Keppel), who diſtinguiſhed himſelf by taking the Havannah.

pleaſed

pleaſed that it had been brought forward in the ſhape in which it now ſtood; for though he could not agree with the Noble Earl in the Bill which he had introduced into the Houſe, he muſt declare his full concurrence in every ſentiment and conſtitutional principle which the Noble Earl had aſſerted; they were the principles, in the love and admiration of which Earl Spencer ſaid he had been educated. He congratulated the Houſe on the pleaſing proſpect of future aſſiſtance from the great acceſſion of talents which they had in the Noble Earl, and he congratulated the Noble Earl himſelf on having commenced his political career with the aſſertion of ſentiments ſo truly conſtitutional; but he conſidered it to be his duty to declare, that, in the preſent inſtance, he ſaw no neceſſity for a Bill of Indemnity; although he conſidered the keeping of foreign troops in the kingdom without the conſent of Parliament to be illegal and unconſtitutional. The Noble Lord did not queſtion the expediency of the meaſure; he had reſted his argument entirely upon the legality. If he believed, with his Lordſhip, that the meaſure came within the queſtion of illegality, he would not only vote for a Bill of Indemnity, but would join the Noble Earl in voting for ſome poſitive declaration for ever after to ſettle the queſtion, and to prevent the repetition of ſuch an act. His Lordſhip ſaid, he would endeavour to follow the Noble Earl's arrangement, and firſt he would examine the precedents he had ſtated. The Bill of Rights, one of the deareſt bulwarks of our liberties (and clearly a declaratory law, as it only recogniſed old principles of liberty, but gave no new privileges to Engliſhmen), makes it evident that his Majeſty has not the power to employ a ſtanding army on ſervice in this country without the ſanction of Parliament. But does the preſent caſe amount to this? ſurely not. The Heſſian troops are not upon ſervice in England; they are merely diſembarked upon an emergency, of which due notice was given to Parliament by his Majeſty's meſſage, as ſoon as it was poſſible for miniſters to do it.

Nor does the caſe come within the Act of Settlement; for the Heſſian officers, while here, are not in any office of truſt; nor were they, as the Noble Earl had correctly ſtated, recogniſed by the Mutiny Act. Here then was the diſtinction to be taken between the mere caſual landing of troops on an emergency without employing them, and the introduction and employment of troops on actual ſervice. For this reaſon the Earl ſaid, he could not agree to the preſent Bill of Indemnity; and none of the precedents, of which ſeveral were by the Noble Earl's confeſſion inapplicable, ſerved to convince his mind that the preſent was a caſe that called for Parliamentary interference. Of all the precedents, that of 1784 was moſt in point.

A body

A body of Heſſian troops had been diſembarked in time of peace on an emergency, as they could not get to their own country in conſequence of the Weſer being frozen. The King's meſſage was ſent down to the Houſe of Commons on a memorable day, on the 12th of January 1784. On that very day the Houſe of Commons came to a vote, "That his Majeſty's miniſters had not come into office in a manner likely to conciliate the confidence of that Houſe;" and yet, though thus apparently able to paſs any reſolution they might think fit, and not very likely to let any breach of the conſtitution eſcape their vigilance, the meaſure of the introduction of foreign troops into the kingdom at that time was paſſed over in ſilence. With regard to the precedent of 1641, he confeſſed it had eſcaped his notice, not having ſearched for precedents antecedent to the period of the Revolution; the beſt precedents, in his opinion, being to be found ſubſequent to that moſt important event. The orders and reſolutions of Parliament in former times, though many of them were excellent in themſelves, were more fit for the dry reſearches of a ſociety of antiquarians, than for practical reference in a modern Chamber of Parliament. The ſpirit of the preſent motion clearly was, that the King ſhould not keep an army in this country without the conſent of Parliament previouſly obtained. This would be true, if it were either ſtated or believed that he kept this army in the kingdom for the purpoſe of uſing it in home ſervice. If any man were to aſſert that his Majeſty could uſe thoſe foreign troops, or any troops in actual ſervice in the kingdom, without the previous ſanction of Parliament, Lord Spencer ſaid he would be the firſt to impeach that man. It was the right and the bounden duty of that Houſe to watch the conduct of miniſters in this reſpect; and it was undoubtedly true, as the Noble Earl had ſtated, that their vigilance was moſt demanded in dangerous times, when innovations might be moſt ſucceſsfully attempted. But he ſaw in the inſtance in queſtion no violation of law or the conſtitution in the preſent tranſaction When troops were thus landed, to juſtify the act it was eſſential they ſhould have a foreign deſtination; it was eſſential that their reſidence ſhould be temporary; and, above all, a prompt communication to Parliament was eſſential to juſtify the introduction of foreign troops. All theſe eſſential points were to be found in the conduct of the preſent meaſure. Unleſs their Lordſhips therefore could believe that all this was meant as a blind to ſome overt deſign, they could not, in his mind, think that any proceeding, on their parts, was neceſſary. He had no ſort of difficulty in declaring, that it was not in the power of the prerogative to introduce foreign troops, either to quell domeſtic

meſtic diſorder, to take ſhare in garriſon duty, or to make a permanent reſidence in the kingdom, without the ſanction of Parliament; but their introduction on an emergency, and under the modifications which he had ſtated, was clearly not againſt law, and wanted no indemnity. He would never give up the control of Parliament over the exerciſe of any illegal prerogative; but he did not conceive, ſituated as they were at preſent, that his Majeſty's miniſters required any interpoſition by bill, or otherwiſe, to ſhelter their proceedings; therefore he ſhould give the motion his negative.

Lord Auckland ſaid, that from the manner in which the Bill had been opened, and from the terms in which it was worded, it was the avowed object of the Mover, and of thoſe who were to ſupport him, to urge the Houſe to give an opinion reſpecting the extent or limits of the powers entruſted to the Crown. He was ſorry to ſee a great queſtion agitated on very ſlight grounds; he would however treat it with reſpect, becauſe he felt and knew that diſcuſſions have at all times contributed to the perfection and ſecurity of that conſtitution under which theſe kingdoms poſſeſs more national energy, more general proſperity, and more individual happineſs, than was ever enjoyed by any people in any age or hiſtory.

With theſe ſentiments he would ſeparate the queſtion from the bill, and would ſuppoſe himſelf to be called upon to give an opinion, "Whether it is illegal to bring foreign troops into the kingdom, by order of the King, in time of war, without the previous conſent of Parliament?" To the queſtion ſo ſtated, he could, from the cleareſt conviction, give a negative. He never had met with any law to reſtrain the King in the exerciſe of the diſcretion now objected to; he had not ſeen any conſtitutional *dictum* to the contrary in any writer of reputation, from the earlieſt times to the preſent day; there was no uſage to the contrary, to ſupply the place of law; all the precedents produced tended to ſanctify the practice, provided that, ſubſequent to bringing the troops into the kingdom, an immediate communication is made to Parliament.

If, however, the queſtion were to be reverſed, and he ſhould be required to give an opinion, "Whether the bringing foreign troops into the kingdom in time of war, by order of the King, without the previous conſent of Parliament, is according to law?" he was not equally prepared to ſay, that, to the queſtion ſo ſtated, he could give an affirmative. The difference was material; and he muſt entreat their Lordſhips to advert to it. It does not follow, that becauſe a caſe is not contrary to law, that therefore it is according to law. A

ſuperficial

ſuperficial knowledge of our conſtitution was ſufficient to ſhew that there are many caſes on which the law is ſilent; and in ſuch caſes it had always been the wiſdom of the two Houſes of Parliament to remain ſilent alſo, unleſs when there were unequivocal reaſons to apprehend that the Crown was making a pernicious and dangerous uſe of the diſcretionary power, reſulting from the ſilence of the law.

Putting the queſtion of legality aſide for a moment, he would next conſider it upon fair reaſoning; according to which, he was of opinion that ſuch a power (which is more formidable in ſound than in ſubſtance) ought to ſubſiſt in the hands of the King, to be exerciſed for the benefit of his people. The advantages were evident: The poſſible dangers were no more than may be conjured up againſt every exiſting prerogative of the Crown.

Numberleſs caſes may ariſe, of the moſt urgent public expediency, in which the ſucceſs of a war, and the preſervation of the country, may depend on the bringing ſubſidized or allied troops into the kingdom, without the previous conſent of Parliament. That conſent implies a communication to the enemy, and to all the world, of the number of troops to be brought, of the places from which they are to come, the places in which they are to be employed, and the period of time which they are to remain.

On the other hand, the Noble Lord who moved the Bill had ſet up an hypotheſis, that a vicious Prince might land immenſe foreign armies, and deſtroy the liberties of the country. He muſt beg leave, without meaning any diſreſpect, to conſider that propoſition as extravagant. If it were poſſible for a Monarch to exiſt in this country, vicious enough, daring enough, and powerful enough to make the attempt ſuppoſed, he certainly would not be deterred either by the preſent Bill of Indemnity, or by any reſtraint of law. Their Lordſhips might in like manner argue, from imaginary abuſes, againſt every prerogative repoſed in the King, and ſo well defined by the beſt writers on our conſtitution, to conſiſt "in the diſcretionary power of acting for the public good, in caſes where the law is ſilent." The examples were obvious. The King has the power of pardoning offences. It may be objected, that a perverſe government may take place, which would miſapply this prerogative to the abuſe of general pardoning, and to the interruption of the whole courſe of juſtice. Again: The King may give his negative to bills in Parliament; here it may be ſaid that an obſtruction may be given to the whole courſe of legiſlation. Again: The crown is entruſted with the prerogative of declaring war; it may be ſaid, that a vicious Prince

may put us wantonly in a ſtate of hoſtility with all the world.

A fertile imagination might raiſe up ſimilar, or greater dangers, againſt the power of making treaties, and againſt every other diſcretion repoſed in the Crown, under which the country has ſo long enjoyed ſo much happineſs and ſo much ſecurity.

He would conclude by aſſerting, that there was not a Noble Lord who heard him, that there was not in the whole range of his Majeſty's dominions a ſingle individual of ſound mind, who could lay his hand on his heart and ſay, that there exiſts the moſt remote appearance of danger to the conſtitutional liberties of theſe kingdoms, from the landing of ſubſidized or allied foreign troops, in time of war, under the orders of Government. Whatever, then, might be the difference of opinions reſpecting the law and conſtitution, ſtrictly and abſtractedly conſidered, he entreated their Lordſhips to leave this point as their anceſtors had left it. He would accordingly leave it here, with a fervent prayer that their poſterity might enjoy the bleſſings of the Britiſh conſtitution for many generations, ſubject to no greater danger than what in truth exiſts in the meaſure which had occaſioned that day's debate.

*Lord Romney** apologiſed for preſuming to riſe in the Houſe thus early after having ſo lately taken his ſeat among their Lordſhips, but having heard what had fallen from the Noble Lord who had juſt ſat down, which, conſidered in a conſtitutional point of view, appeared to him to be a doctrine the moſt extraordinary that had ever been avowed and maintained, regard to his own character would not ſuffer him to give a ſilent vote on the occaſion; and therefore he felt it indiſpenſably neceſſary to trouble their Lordſhips with a few words on the ſubject. It had fallen to his lot, his Lordſhip ſaid, to have been the perſon, nineteen years ago, to riſe in the other Houſe of Parliament, and move an amendment to the preamble of the Indemnity Bill then brought in, on the buſineſs of miniſters having ſent foreign troops to garriſon Gibraltar and Port Mahon. At that time it was not even pretended,

* Lord *Romney* was the Honourable Charles Marſham, and ſat in ſeveral Parliaments in the Houſe of Commons (but not in the preſent) as Repreſentative for the county of Kent. He has always been looked up to as one of the moſt independent Members, and moſt ſincere friends to the conſtitution, in either Houſe; and a better proof cannot be given of his having been ſo regarded, than his being conſidered as one of the Country Gentlemen, although the ſon of a Peer. His Lordſhip ſucceeded to his father's title on the death of the late Lord Romney, which recently happened.

that, to introduce and employ foreign troops in any part of the King's dominions, was not illegal and unconſtitutional. It was admitted on all hands; and the only queſtion was, how to frame and word the preamble of the Bill of Indemnity, ſo as not to throw a doubt upon a principle, reſpecting which there was no doubt entertained, or queſtion made. The principle he had ever underſtood to be clear and indiſputable; in that view he had ever been led to conſider it, and in that view he ſhould continue to regard it. With reſpect to the preſent caſe, under all its circumſtances, he was not ſatisfied in his own mind that a Bill of Indemnity was neceſſary; at any rate he thought a time of war, and during a moment of great public difficulty, not the moſt fit time to entertain or paſs a Bill of Indemnity. He begged pardon of their Lordſhips for having troubled them with his opinion; but the doctrine he had heard laid down by the Noble Lord was ſo contrary to every idea he had of the conſtitution, that he could not, as an honeſt man, and from regard to his own character, ſit ſilent. At the ſame time, as he did not like to give a vote againſt a Bill of Indemnity, moved for on the ground of ſaving the conſtitution from encroachment, if the Noble Earl perſiſted in his motion, he would endeavour to get rid of it by moving the order of the day, or moving to adjourn, or by other means, moſt regular and conſiſtent with the form of proceeding in that Houſe.

Lord Grenville began with obſerving, that the queſtion turned wholly on an abſtract propoſition; and he owned he ſaw no great uſe, nor indeed any great political wiſdom, in agitating abſtract propoſitions in Parliament. Feeling, therefore, as he did, he thought ſuch diſcuſſions, generally ſpeaking, were rather to be avoided, than deſired, or unneceſſarily brought forward; and for this opinion he had the authority of our anceſtors, whoſe wiſdom was not a little conſpicuous in their adherence to that principle: And, indeed, there needed no other proof of the danger of departing from it, than a contemplation of the miſchiefs that had reſulted to the French, in conſequence of their ſplitting upon that rock; which he conceived were in a great meaſure imputable to their having reſted all their power on idle and uſeleſs attempts, in the firſt inſtance, to define the abſtract principles of government. In the preſent inſtance, there was no occaſion to refer to paſt precedents; but their Lordſhips ought to confine themſelves to the particular caſe under conſideration. If nothing new, nothing irregular had been done, no Bill of Indemnity could be required. The preciſe queſtion was, whether the act of landing a ſmall body of Heſſian troops, deſtined on a foreign

foreign ſervice, which was retarded by accident, whoſe health required that they ſhould be ſo landed, and of which landing notice had been given to Parliament as early as poſſible, was illegal? This was the accurate ſtate of the queſtion. To keep a ſtanding army in the country, without the conſent of Parliament during the time of peace, or to land foreign troops at any time without immediately acquainting Parliament, he was ready to admit was illegal; but that did not by any means imply that a caſe of neceſſity might not ariſe, in which his Majeſty's miniſters might feel it abſolutely requiſite to admit them; and this he conceived might be done without the ſmalleſt breach of the conſtitution. What was the fact in the preſent inſtance? A number of Heſſians had been engaged for foreign ſervice, and they were to rendezvous for that ſervice at a certain place and at a certain time: They were at the place agreeable to the ſtipulation; but, from circumſtances which it was impoſſible to foreſee, the expedition, in which they were to be engaged, was obliged to be poſtponed; and, during this delay, it was found expedient to land the troops for the preſervation of their health. This being done, the firſt opportunity was taken to inform Parliament of the fact: Not that he deemed ſuch a ſtep, under ſuch circumſtances, abſolutely neceſſary, or that his Majeſty's miniſters had adviſed a ſtretch of the prerogative, in ordering them to be landed. He knew, and he was ready to admit, that the Crown could not keep up a ſtanding army in this country without the conſent of Parliament; and Parliament, as the grand council of the nation, had abundance of ſecurity againſt it, from the variety of checks in its power. Theſe checks were of three deſcriptions, and each of them ſufficiently powerful and efficacious to render it impoſſible for the Crown to keep up a ſtanding army, or an army of any kind, without their conſent. The checks were theſe, the ſupplying the money to pay an army, the enacting and inveſting the Crown with the power to diſcipline the army, and the enabling the Crown to provide the army with quarters. What then was to be apprehended from the admiſſion of a few foreign troops, in a caſe of neceſſity, avowedly engaged for foreign ſervice, and who could not poſſibly act here? There certainly could be no manner of danger; and therefore it appeared to his mind, his Lordſhip ſaid, the more ſtrange that an indemnification ſhould be thought neceſſary for thoſe whom no man could fairly charge with having done wrong; for the expediency had been avowedly waved by the Noble Earl who had brought the queſtion forward with a degree of ability, in the applauſe and admiration

miration of which no one of their Lordſhips more ſincerely joined than he did.

His Lordſhip ſhewed the danger that muſt neceſſarily reſult from not leaving the reſponſibility for ſuch a meaſure as that under conſideration with miniſters. He declared he held himſelf reſponſible for his ſhare of the meaſure, and ſo he was perſuaded did the reſt of his Majeſty's ſervants. Let their Lordſhips recollect that, according to the ſpirit and wiſe maxims of the conſtitution, all the prerogatives of the King were to be exerciſed under the reſponſibility of his miniſters, and that it was the province and duty of that Houſe to watch over, to inveſtigate, and to examine the exerciſe of each prerogative; and it was equally their right to cenſure, and to puniſh, when exerciſed without ſound diſcretion; but they were not, he conceived, prepared to queſtion and arraign the prerogative of the Crown itſelf. They would not preſume abuſe; they would not lay it down as a maxim, that where there was prerogative there muſt exiſt abuſe of it. All prerogative was in itſelf inconſiſtent with liberty; for diſcretionary power lodged in the hands of any perſon, muſt be incompatible with the general right of a community living under equal laws, but it was an evil, which, on the ground of the general good, had ever been ſubmitted to as a neceſſary evil. What then was the conduct of Parliament with reſpect to the prerogatives of the Crown? Not to preſume that they were to be abuſed! For the very prerogative of mercy itſelf in that caſe would be liable to ſuſpicion. It might be converted into the means of perſecution. A man corruptly ſet on to violate the laws againſt the life or property of a perſon obnoxious to Government, might be groſsly and unjuſtly pardoned: In ſuch a caſe, an impeachment of miniſters would be the conſequence; Parliament would puniſh the abuſe of the moſt ſhining and moſt glorious of all the prerogatives of the Crown, that of interpoſing mercy and granting pardon; but they would previouſly have inquired, and have furniſhed themſelves with grounds for believing the abuſe of it. To keep an army in England without its conſent was contrary to law; but to introduce a body of troops merely on an emergency, and to communicate the ſame to Parliament, upon the earlieſt notice which miniſters themſelves received, was conſiſtent with practice, and had ever been regarded as a ſound exerciſe of the royal diſcretion. To keep an army in England, which required diſcipline, could only be done by act of Parliament, and they knew that the jealouſy of Parliament made it neceſſary that the act ſhould be annual. It was obvious that the exigency of the occaſion might demand the introduction

troduction of foreign troops, when Parliament could not be called on to give a previous ſanction. Who would ſay that ſuch an exigency might not exiſt during the interval between the receſs of Parliament at the end of one ſeſſion and the opening of the next? Let their Lordſhips reflect that miniſters were under a double reſponſibility; they incurred a double danger, both by bringing troops into the country at an improper time, and by omitting to bring them when there ſhould be real occaſion. If the Houſe ſhould declare, by paſſing a Bill of Indemnity, that it was contrary to law ſo to introduce troops at all, how could they afterwards impeach miniſters for omitting to do ſo in a moment of real and preſſing neceſſity? It would therefore be more advantageous to the country, that the queſtion ſhould be left open, and miniſters remain ſubject to the double danger, than that it ſhould be decided either one way or the other. His Lordſhip ſaid, he thought it right, upon a conſtitutional ſubject like the preſent, to deliver his frank opinion: He was ready to declare, then, that though theſe foreign troops were landed on an emergency, yet, in caſe of annoyance by an enemy, they might be employed with benefit to the kingdom; in which caſe, however, a freſh notice to Parliament muſt undoubtedly be given by the Crown. Theſe, his Lordſhip ſaid, were his ideas upon the ſubject, and he doubted not but he ſhould have their Lordſhips' concurrence. Such had been the ſentiments of their anceſtors; and he flattered himſelf he need not uſe many words to convince the Houſe that theſe were not times for their Lordſhips to apply new theories to the conſtitution.

The Earl of Lauderdale, after a very handſome compliment to the Earl of Albemarle on his eloquence and ability, and congratulating the country on the advantages they were likely to derive from ſo auſpicious an opening of his political career, proceeded to ſtate that certain doctrines which he had heard in another Houſe, had a good deal alarmed him. He was glad to find, however, that the Noble Secretary had not ventured to go the ſame length, and avow the ſame unconſtitutional principles. But, cautious as the Noble Secretary of State had been, he was proud to differ materially both from that Noble Lord and a Noble Earl (Lord Spencer) who had that night given the Noble Secretary his ſupport. He conſidered the preſent hour to be proper and ſeaſonable for the diſcuſſion of a queſtion ſo conſtitutionally important as that before the Houſe, as it was full time that their Lordſhips ſhould be ſatisfied on a point ſo eſſential in its conſequences. The meſſage, he confeſſed, which brought intelligence of a body of Heſſian troops being landed in this iſland, ſtruck him with curioſity

curioſity and alarm. He lamented that he had not been able to obtain from the Noble Secretary of State, on the day that the meſſage was delivered from the Crown, the ſatisfaction which the Noble Secretary had not thought it unſafe to give that day; it was now acknowledged that the Heſſian troops had come to be employed for foreign ſervice, and it was owned that they might be employed to reſiſt any attack that might be made here. The preſent was a caſe which in his mind demanded the interference of Parliament, and not merely from its own importance, but alſo from the declarations with which it was accompanied. A Noble Friend of his (Lord Romney) had expreſſed with becoming regard to that conſiſtent love of the conſtitution which had ſo honourably marked and diſtinguiſhed the uniform tenour of his life, his opinion of an expreſſion that militated againſt his notions of law; he lamented that his Noble Friend did not ſee with him the neceſſity of going further, and ratifying by a vote on that day his ſenſe of the law on the ſubject. For his part, the Earl ſaid, he ſaw not any good reaſon why it ſhould not become an abſtract queſtion, as other queſtions had (particularly in the caſe of the Regency), by which the public mind might be informed and ſatisfied. It was full time that it ſhould, when a doctrine ſo dangerous to the conſtitution, as this doctrine of prerogative, was unreſervedly preached in one Houſe, and ſomewhat countenanced in another. In ſuch a criſis, ſilence was in his mind criminal. The Noble Secretary of State had ſaid, that no diſcuſſion on prerogative, at this period, ought to be brought forward. As little could he agree in that point. He had a right to examine and watch over the conſtitution of the country; and however ineffectual thoſe endeavours might prove, impartial poſterity, he had no doubt, would do them juſtice. Some future hiſtorian, in viewing and narrating the important events of this awful period, he hoped, would act impartially, and ſtate and record the motives and the merits of a few public characters. The Noble Secretary of State, he obſerved, had trod with more than uſual caution on the ſubject he had taken up. He ſounded his way before he explored the depths, and ſeemed, from conſciouſneſs, almoſt to deſpair of what he aimed at, and wiſhed to obtain. The doctrines promulgated that day, however, certainly demanded the meaſure propoſed by the Noble Mover. He wiſhed therefore that the health of the venerable Earl Camden would have permitted him to come down that day. [A cry of *Order! Order!*] The Earl went on to ſay, that had Lord Camden been preſent——

Lord

Lord Sydney called the Noble Earl to order, declaring it to be diſorderly to mention the name of any Noble Peer, a Member of that Houſe, in debate.

The Earl of Lauderdale reſumed his argument, but again mentioned Lord Camden's name.

Lord Sydney again roſe, and declared it was contrary to the ſtanding order of the Houſe, to mention any Noble Peer by name.

The Earl of Derby ſaid, the ſtanding order had better be read; the purport of it, he well knew, was, that it was diſorderly to name any Peer preſent, but it was not out of order to mention his name in his abſence.

The Earl of Lauderdale immediately ſaid, that it was not wonderful that the bare ſound of the name ſhould be unpleaſant to the Noble Viſcount; and merely in regard to the Noble Viſcount's feelings, he would ſpare him the repetition. That venerable Earl, to whom he had alluded, had ſaid, that they wanted no lawyers from Weſtminſter Hall to teach them the conſtitution on this point; it was engraven on every Engliſhman's heart. The ſaying was a wiſe one, and worthy the mouth of that venerable Peer who uttered it; he therefore could not but lament the Noble Earl's abſence, as his authority on the preſent occaſion could not but give great weight to the queſtion, and to the arguments urged in ſupport of it. The Earl admitted that it was the undoubted prerogative of the Crown to bring foreign troops into the kingdom, but he begged leave to obſerve, that it was Parliament alone who could authoriſe or enable the Crown to continue them. He contended, that, on a liberal interpretation of the Bill of Rights, there was no difference to be inferred between the landing of foreign troops either in peace or war. Such was the generally admitted inference to be drawn from the Bill of Rights, according to a liberal conſtruction of its ſpirit and meaning. The Earl adverted to the authorities of the Bill of Rights, the Act of Settlement, and the various precedents, and ſhewed, that, according to the letter of each meſſage that had been ſtated from the King, down to the preſent inſtance, the communication had been made in ſufficient time to enable Parliament to take meaſures againſt the landing of any foreign troops about to be introduced into this kingdom, if they thought it unſafe or improper. The thing was done without affording Parliament time to take any proceeding calculated to guard againſt the danger of the precedent. It was ſaid the Crown could introduce troops without their conſent in the preſent inſtance, and that no danger could ariſe to the conſtitution, becauſe ſuch troops could neither be paid, diſciplined, nor

nor ſent to quarters, without the authority of Parliament. Was it then to be gravely argued, that the Crown poſſeſſed the curious prerogative of landing at pleaſure any number of armed banditti? for ſuch muſt all troops, not ſubject to diſcipline, be deemed and conſidered. The King could not keep native troops without the mutiny law; but according to this doctrine he could keep foreign troops in the kingdom; and the violation of the moſt ſacred rights, with reſpect to the regulation of the ſtanding army, was neceſſary to the exiſtence of this prerogative. He might land troops without previous communication; without aſſent; he might do this to any amount; but when landed they could not be employed, but with the ſanction of Parliament—and Parliament were to ſee the introduction of foreign troops with perfect calmneſs and tranquillity, becauſe afterwards they might, in right of their conſtitutional authority, diſpute the uſe to which they were to be put. The Earl ſaid, he did not highly approve of arguing a conſtitutional point with 30,000 armed logicians. He was however glad that the queſtion had been diſcuſſed. He was alſo glad that it would go forth into the world, and that men would ſee that it had not been argued in that Houſe with the ſame lofty tone with which it had been diſcuſſed in another place.

Lord Hawkeſbury agreed with his Noble Friend, the Noble Secretary of State, that an abſtract queſtion had been brought under diſcuſſion; ſuch diſcuſſions were, generally ſpeaking, unwiſe, and rarely afforded any uſeful or important advantage. With moſt of the doctrines laid down by his Noble Friend he alſo agreed, as his Noble Friend had clearly kept his argument conformable to the meſſage from the Crown, and the Addreſs of that Houſe in anſwer to it. With regard to the illegality of landing foreign troops in the kingdom without the conſent of Parliament, there could not be a queſtion upon the ſubject; but undoubtedly the meaſure, in this caſe, as in every other, ought to be conſidered with a particular attention to the peculiar circumſtances of it. With regard to the inſtance in queſtion, no Noble Lord imputed blame to miniſters, or raiſed a doubt as to its expediency or neceſſity. With regard to the right of the Crown in this particular, the various acts of the Legiſlature, and the univerſally received principles of common law, were ſufficiently clear upon it, as well as upon every other part of the conſtitution, without calling upon Parliament upon every occaſion to ratify them. His Lordſhip took notice of moſt of the points which had been mentioned by the laſt Noble Lord, and declared, that, in his opinion, not one of them contained any argument to induce their Lordſhips

to

to vote for the bill in queſtion. He conſidered that Houſe as the grand ſtationary council, whoſe vigilance was paramount, and over all. For his part, he had already ſaid, and he repeated it, that he was as ready as any Noble Lord could be, to declare, that the employing foreign troops in this country was illegal; but then the preſent caſe did not amount to that, for theſe troops were actually engaged for foreign ſervice, but had been landed through the mere neceſſity of preſerving their health; and this, a very little inveſtigation would prove to their Lordſhips, was no leſs politic than humane.

As to the precedent of the year 1641, upon which ſo much ſtreſs had been laid, he thought it by no means a good precedent, becauſe at that time the Parliament were on the eve of engaging in a civil war, which immediately afterwards took place; and looking to reſiſtance, it was clearly of great moment to them to prevent Charles I. from landing any foreign troops in this iſland. With reſpect to the Bill of Rights, if it had been the intention of the great characters concerned in it, they certainly would have provided for a caſe like the preſent, could they have foreſeen that any ſuch caſe would ariſe; for it would be worth their Lordſhips' while to recollect, that the Bill of Rights was drawn by men of the higheſt character then living; among thoſe who had a principal hand in it, was Mr. Somers, afterwards Lord Somers, a great ſtateſman, a great lawyer, and a great writer. As to the ſubſequent inſtances, he paſſed briefly over them, and ſhewed the tardineſs with which Parliament had entered into any conſideration upon the ſubject of foreign troops; that the legality or illegality had not been even the ſubject of their examination; and that the ſubordinate conſiderations of their ſubſidy and deſtination had alone been in their view. He contended very warmly, that this was one of the prerogatives of the Crown which ſhould be truſted to the diſcretion of the executive power, which was reſponſible for the exerciſe of it; and that its expedience conſtituted its loyalty, and juſtified it completely.

Miniſters, as far as he underſtood, did not feel the ſmalleſt apprehenſion from what they had done, conſequently did not wiſh for an indemnification; and, as he thought it was totally unneceſſary, he ſhould give the Noble Earl's motion his negative.

Earl Stanhope ſaid, he was happy to find that the extraordinary doctrines he had heard in another place, were not avowed in that Houſe. His Noble relation, the Noble Secretary of State, had been more wiſe and guarded in his expreſſions, than other miniſters had elſewhere proved themſelves. It had been ſtated in another Houſe, by perſons high in official ſituation, in the

broadeſt and moſt unequivocal manner, that the King, by his prerogative, had a right not only to land as many armed foreigners in this country, either in time of peace or war, as he pleaſed, without the ſanction of Parliament, without any previous notice to Parliament, or even againſt the avowed ſenſe of Parliament, but to march them wherever he thought proper. All he would ſay upon this point was, that he was happy to have an opportunity of repeating what he had ſaid on a former day, that if ever a matter of a treaſonable nature was attempted by the miniſter, or any miniſter of this country (and ſuch he conſidered the doctrine that had been ſtated, according to Blackſtone's definition of treaſon), the people would be juſtified in reſiſting it by force. [His Lordſhip read the paſſage in Blackſtone's Commentaries which ſupported his aſſertion.] He could not, the Earl ſaid, help differing very widely from a Noble Lord (Auckland), who had argued that it was legal for the King to introduce a foreign army into this country; he was on the point of riſing, to move to have the Noble Lord's words taken down, when, before he could do ſo, finding that the bare mention of ſuch an opinion was not reliſhed by the Houſe, he turned ſuddenly round his own point, and got out of the ſcrape, by arguing negatively, that it was not declared by any ſtatute, or known *dictum* of law, to be illegal. The Noble Secretary of State did not go ſo far, but he ſeemed to think that the legality of keeping a foreign army in this country depended upon the manner in which it was to be employed; becauſe, ſaid that Noble Lord, it would be illegal to employ thoſe troops without a ſecond communication from the King to Parliament, ſtating in what manner they were to be employed. The Earl ſaid, it was curious to obſerve the ſhades of difference between the three Noble Lords, who had owned the illegality of landing troops in the Iſle of Wight, with diſtinct and ſeparate reſervations. The firſt of the three Lords ſoared almoſt to the topmoſt round of the Tory doctrine of prerogative maintained in another Houſe of Parliament. His Noble relation, the Noble Secretary of State, had deſcended to a lower ſtep, and came nearer to their point; but the third Noble Lord (Lord Hawkeſbury) had dropped down almoſt to their level. That he might not be ſuſpected of doing injuſtice to the Noble Lords, he would read to them their own words, which he had taken down at the time, and which he did accordingly.

The *onus probandi*, however, did not reſt with him, and thoſe Noble Lords who argued with him, to point out the law which prohibits; on the contrary, it is with the ſupporters of the prerogative to ſhew the law which allows and juſtifies, ſuch an

an exerciſe of the prerogative. If there be ſuch a law, it muſt be either common law or ſtatute law. The Earl ſtated to the Houſe, on the authority of Lord Chief Juſtice Hale, what conſtituted the diſtinction between the common law and the ſtatute law. The former conſiſted of all that part of the law which was received, recogniſed, and eſtabliſhed before the time of the memory of man; and the other, the ſtatute law, conſiſted of what had paſſed within the time of the memory of man. Judge Hale had ſtated the latter period to commence with the firſt year of Richard I. who began his reign on the 6th of July 1189; and all, therefore, recogniſed before that time, was deemed to have been received and eſtabliſhed antecedent to that period, and was commonly termed the common law. The date he begged their Lordſhips to keep in mind, ſince all the laws made prior thereto were thrown among the *lex non ſcripta*, as paſt man's memory, and made part of the common law. Blackſtone, his Lordſhip obſerved, had ſomewhat narrowed our reſearches after *ſtanding* armies; for he expreſsly tells us, *in* vol. i. p. 414. that Charles VII. of France was the firſt prince who introduced and kept on foot ſtanding armies in Europe; this was in the year 1445. Nothing appeared upon the ſtatutes of any ſuch right; and the common law was equally ſilent upon the ſubject. It was however a clear proof that ſtanding armies were not in practice before that period, and conſequently they were not recogniſed by, or known to, what was termed the common law, having been firſt introduced centuries after the reign of Richard the Firſt; and it was to be obſerved, that no ſtatute had paſſed ſince on the ſubject, down to the day of the firſt Mutiny act.

In examining precedents, however, one appeared upon the Journals, vol. xxix. which legalized, in the year 1759, the billetting of foreign troops. If it was legal to billet, it was legal to *bring* them here; for though they might be brought, and not billetted, they muſt, before they could be billetted, be *brought* over. There was no juſtification whatever in a precedent, which, if it had been abſurd and unconſtitutional, was by no means to pledge us to perpetual error.

After a variety of curſory obſervations the Earl proceeded to the precedent of 1775, when foreign troops had been landed to garriſon Gibraltar and Port Mahon; and it had been found indiſpenſably neceſſary to come to Parliament to obtain its ſanction, and paſs a Bill for quartering theſe troops. This certainly proved that, without the ſanction of Parliament, they could not be kept in the kingdom; for by paſſing a Bill to quarter them, Parliament gave a ſanction to bringing them.

His Lordſhip ſaid, he had heard the argument of a Noble Earl (Spencer) that day with great attention and equal ſurpriſe, becauſe he had always hitherto thought that Noble Earl a ſteady friend to the Conſtitution. With ſurpriſe he had heard the Noble Earl deſire the Houſe to confine themſelves to precedents to be found ſince the Revolution, and not to look farther for the conſtitution of this country, emphatically declaring, that all reſearches before that period were fitter for diſcuſſion by a Society of Antiquarians than in a Chamber of Parliament at this day. In this, the Earl ſaid he differed widely from the Noble Earl, ſince he could not but recollect that not an iota of our conſtitution was altered at the time of the Revolution, but merely recogniſed, declared, and eſtabliſhed. Had we not the Trial by Jury, the Liberty of the Preſs, Magna Charta, and the Habeas Corpus, before the Revolution? And here, the Earl ſaid, he could not help recurring to the authority and words of a Noble Perſon, that we gained nothing by the Revolution, becauſe he conſidered the Bill of Rights only as a declaratory act. Earl Stanhope next animadverted upon Lord Hawkeſbury's idea of Parliament being a ſtanding Council.—"Let me aſk your Lordſhips (ſaid the Earl) if Parliament ſhall happen to be prorogued, where this ſtanding Council is to be found? It will be too late to call upon this check upon pay, diſcipline, and quartering of troops, ſo much boaſted of by my Noble Relation, when 30,000 Ruſſians, 30,000 Pruſſians perhaps, and 30,000 Heſſians, are landed, for according to this doctrine it is poſſible to ſuppoſe that they may be landed in different parts of the kingdom. With regard to precedents, the Earl ſaid he conſidered them as nothing, particularly when argued as they had been that night. On the ground of precedent, among other extraordinary arguments, it had been contended, that there was no neceſſity for a Bill of Indemnity in the preſent inſtance, becauſe it was to be found by reference to precedent that illegal meaſures had been adopted in many inſtances, without any notice having been taken of them by Parliament. Upon this idea his Lordſhip obſerved, miniſters might do juſt as they pleaſed, for he believed there was nothing ſo bad, ſo illegal, or ſo enormous, but there might be found a precedent for a ſimilar crime, without its having been noticed by Parliament. Earl Stanhope concluded, and declared, he ſhould give his hearty aſſent to the motion, and thanks to the Noble Earl for bringing it forward. He was for the Bill of Indemnity, though he might perhaps agree that there was nothing ſo criminal in the meaſure on the part of miniſters as he could deem himſelf entitled to call puniſhable.

Lord

Earl Spencer explained. He was, he owned, obliged to the Noble Earl for having hitherto done him the honour to conſider him as a friend to the conſtitution, and he truſted he ſhould continue to be entitled to be ſo conſidered. He declared he had been very far from depreciating the Britiſh conſtitution prior to the Revolution. The Noble Lord miſtook him totally, if he imagined that he had ſaid any thing like it. His love for it had taught him to look there, and from that happy period downward to the preſent day, for a declaration of our rights; ſo far from endeavouring to caſt any ſlur on the precedents to be found antecedent to the Revolution, he had taken ſhame to himſelf for not having ſearched for precedents to be found before the Revolution.

The Earl of Caernarvon ſaid, he would not take up much of their Lordſhips' time in a debate ſo extremely unintereſting, though on a ſubject in itſelf of great national importance. "Whether the King can legally employ foreign troops in Great Britain without conſent of Parliament in time of war, is undoubtedly a queſtion of great magnitude, upon which, however, the Noble Mover, and thoſe who have ſupported him, have not been able, from any exiſting circumſtance, to raiſe the leaſt public intereſt, or alarm the jealouſy of the country againſt any ſuppoſed extenſion of prerogative. I have, however, no deſire to conceal my private ſentiment on the ſubject, and I do not think any inquiry is likely to ſhake in me the opinion, 'That the King has no right at any time, without conſent of Parliament, to employ foreign troops in Great Britain:' I ſeek no precedents in ſupport of this opinion, nor ſhould I admit any in ſupport of the contrary; I think it a fundamental principle, without which there is no liberty in this country, and which no precedents can overturn. But though I entertain theſe ſentiments as a private opinion, I am not diſpoſed, without better reaſons than I have heard, to give it at this moment a Parliamentary deliberation and deciſion; for I preſume it will not be aſſerted, that whenever any Noble Lord ſhall propoſe to this Houſe a queſtion of ſuppoſed prerogative as a diſcuſſion of curioſity and inſtruction, that it is the duty of Parliament to decide upon it without delay; on the contrary, I think it becomes the wiſdom of Parliament to avoid all ſuch queſtions, if the circumſtances of the moment do not render it inevitable: I approve at no time Parliamentary diſcuſſions of abſtract propoſitions; and I diſapprove ſtill more, a ſtep which impoſes on the King's miniſters, a neceſſity immediately to claim, or for ever to renounce, the exerciſe of any ſuppoſed prerogative, without the exiſtence of a caſe alarming to the jealouſy of Parliament by the claim or exerciſe. Let it be admitted that it is

inconteſtably the law of the land, that without the conſent of Parliament the King cannot employ foreign troops in Great Britain; where is the exiſting caſe to which this law can apply? and if there is no caſe exiſting to which ſuch law could apply, there can be none which calls upon the jealouſy of Parliament to declare the law; if the law be diſtinctly as admitted, then the breach of it would be an impeachable offence.

"Heſſian troops in the pay of Great Britain, under treaties communicated to both Houſes, are, by the King, in time of war, deſtined to ſerve on the coaſt of France; ſuppoſe, for inſtance ſake, that one half of them are wrecked and ſaved on the coaſt of Suſſex; the other half being off the Iſle of Wight in tranſports, after being long cloſe ſtowed, are landed for the preſervation of their health; common humanity, common prudence, and political economy (as the loſs of men muſt be compenſated by Great Britain), dictate the ſteps neceſſary to be taken. The King informs Parliament, when it meets, of the event (which is all he can do), and receives their approbation and thanks, which is the moſt unequivocal conſent they can give; ſuppoſe, however, the Commons of Great Britain, in a future Parliament, ſhould, upon ſome ingenious diſtinction between previous conſent and ſubſequent, impeach the miniſter for this ſuppoſed extenſion of the prerogative, it muſt be in terms, if not exactly theſe, conveying this in ſubſtance: 'That the King's miniſters, with intention to ſubvert the conſtitution, and to ſet up the prerogative above law, had wickedly preſerved the lives of one diviſion of the Heſſian troops wrecked on the coaſt of Suſſex, without previous conſent of Parliament, by ſuffering them to land on that coaſt, contrary to the intent and meaning of the law in that caſe provided; and that they had, with the intent aforeſaid, preſerved the health of another diviſion of the ſaid foreign troops, by permitting them to land on the Iſle of Wight; the ſaid miniſters pretending that they had not employed, nor intended to employ, ſuch troops in Great Britain, and aſſerting that the ſubſequent approbation of Parliament, when the previous could not be obtained, implied all the eſſential qualities of its conſent; and that it could not be an offence of any nature to do that, which it would have been a high offence to have omitted.' Are your Lordſhips ready to ſay, that you would find a miniſter, under ſuch a charge, guilty of any breach of the law or conſtitution of the country? If not, it is impoſſible to ſupport the aſſertion, that the preſent caſe requires the intervention of Parliament to protect the conſtitution: And what is the mode propoſed to effect this? to give miniſters an indemnity; againſt what? againſt a certain acquittal,

acquittal, if any perſon ſhould be ſo abſurd as to inſtitute ſuch a charge. But Noble Lords ſay, they admit the conduct of miniſters to be perfectly right, and even deſerving praiſe; yet the act is illegal, and in direct violation of the law of the land, and it is neceſſary that it ſhould be declared to be ſo; the Bill of Indemnity is only meant as a pretence for ſuch a declaration; the declaration, however, cannot but be in ſubſtance, 'That the act lately committed by the King's miniſter is highly illegal, and in direct violation of the law of the land, and very fit and proper to be repeated in all ſimilar caſes.' Such muſt be the declaration, and would ſound more like a newſpaper croſs-reading, than a grave and ſerious proceeding in Parliament. I ground my objection to the motion on this, that the preſent emergency does not call for this inquiry into the limits and bounds of the prerogative. Every caſe muſt ſtand and fall upon its own merits, and I am never very earneſt to ſee Bills of Indemnity preſſed upon miniſters in the plenitude of their power and influence, eſpecially when they do not claim of the juſtice of Parliament protection from future enemies, when they deſire no ſhield but their own innocence, and wave an indemnity, offered only in order to graft upon it a declaration that they had violated the law."

The Earl of Guildford declared, that he ſhould not feel it neceſſary to trouble their Lordſhips long, as ſeveral of the arguments he meant to have urged, had been foreſtalled by the Noble Lords who ſpoke before him, and particularly by the Noble Earl who ſpoke laſt. The Earl declared, that he knew of no law, no fundamental principle of the Britiſh conſtitution, which could warrant the preſent proceeding of his Majeſty's miniſters. Certain it was, that the conduct of our anceſtors had been widely different. Some Noble Lords, too fond of precedents, ſeemed to argue that every deviation which had been overlooked by Parliament, formed a precedent, and was as much in their favour as if there had been an exiſting law on their ſide. One Noble Lord, who had ſeemed the moſt inclined to conſider the landing of the Heſſians as not illegal, had aſked, where was the Parliamentary and conſtitutional *dictum*, that pronounced upon the illegality of landing foreign troops in the kingdom in time of war, without the conſent of Parliament? That Noble Lord had heard what had fallen from the Noble Secretary of State, and the Noble Lord near him (Lord Hawkeſbury), on that important point; and was the Noble Lord prepared to ſay that the arguments and aſſertions of thoſe Noble Lords were not conſtitutional *dicta*? The Earl ſaid, the illegality of landing foreign troops in the kingdom either

either in time of war or peace appeared to him to be ſo clear, that he was ſurpriſed there ſhould have been in any man's mind a doubt upon the ſubject. Let Noble Lords for a moment conſider the danger of adopting the other ſort of argument, let them recollect to what an extent it would go under ſuch a conſtruction of the prerogative. In the latter part of Queen Anne's reign, if miniſters had meant what had been imputed to them, and had really intended to overturn the government and deſtroy the conſtitution, while Louis XIV. of France was in the plenitude of his power, that King might have ſent over a French army to any extent and number, and by that means have ſeated James the IId on the throne of his anceſtors, in ſpite of every poſſible oppoſition, and thus have prevented Great Britain from enjoying the bleſſings which we ſo long have enjoyed, and he truſted long ſhould enjoy under the mild government of the Houſe of Brunſwick. Some Noble Lords had ſtated a Bill of Indemnity to be the ſame as a Bill of Impeachment: To his mind there was a wide difference between the two things. A Bill of Impeachment was the proper mode of proceeding againſt miniſters, in order to bring them to puniſhment when there appeared to be ſufficient grounds for charging them with having acted criminally, or with a criminal intention. A Bill of Indemnity was the proper means of ſaving miniſters harmleſs, where, either owing to motives of neceſſity or of expediency, they had acted in a manner contrary to law and contrary to the conſtitution. In the preſent inſtance, no one of their Lordſhips was farther from meaning to impute blame or criminal intention to his Majeſty's miniſters; and therefore it was, that, inſtead of talking of a Bill of Impeachment, he concurred with the Noble Earl who brought the motion forward in ſo able a manner, and with other Noble Lords, in adviſing a Bill of Indemnity. On what ground a Bill of Indemnity was not accepted when offered, he was at a loſs to imagine. It was pretty generally admitted, that it was illegal and unconſtitutional to land the Heſſian troops without conſent of Parliament. By what milder mode could the encroachment on the law and the conſtitution be ſet to rights than by a Bill of Indemnity? With regard to what had been ſaid about the Meſſage from the Throne being ſufficient for the executive government to act upon, he would obſerve, in the words of Lord Coke, "that the King's meſſage was gracious: But what was the law of the land?" Let it be remembered that the King could only ſpeak by record. A Meſſage from the Crown had not even the authority of a Reſolution of either Houſe of Parliament. In fact the King could only exerciſe the royal authority in Parliament

liament effectually when he ſpoke by record; and therefore the only conſtitutional manifeſtation of the royal will in the preſent caſe would be when his Majeſty gave his aſſent to the Bill of Indemnity. For theſe reaſons, the Earl ſaid, he ſhould vote for the motion.

The Duke of Portland ſaid, he would take up but little of their Lordſhips' time, as he wiſhed only to ſay a very few words, but he was anxious to prove his political conduct to be conſiſtent, and therefore he could not conſent to give a ſilent vote. He had no ſcruple to declare that his uniform opinion had been, that to keep foreign troops in the kingdom without the conſent of Parliament was illegal, and contrary to the principles of the conſtitution. In that opinion he had ever lived, and he doubted not he ſhould die in it; but his Grace ſaid, he did not ſee how that bore upon the preſent queſtion, or proved the neceſſity for a Bill of Indemnity in the caſe of landing the Heſſians in the Iſle of Wight. He gave the Noble Earl credit for the conſtitutional motive that had induced him to bring the queſtion forward, and aſſured the Noble Earl, it had afforded him very ſingular ſatisfaction to have witneſſed the abilities he had that day ſo eminently diſplayed in his ſpeech, and which he was happy to find had made ſo ſenſible an impreſſion on the Houſe in general. He hoped he might be allowed to ſay this, as he had not only enjoyed the pleaſure of the Noble Lord's acquaintance from his earlieſt youth, but had been intimate with his Noble Father, for whoſe memory he entertained a ſincere reſpect. To return however to the ſubject in debate, a material circumſtance reſpecting the landing of the Heſſians had ſtruck him, which his Grace declared he was not a little ſurpriſed to find had eſcaped the notice of every other Noble Lord, who had ſpoken before him. It was, that ſtreſs in argument ſhould be laid on the Heſſians having been landed without the conſent or knowledge of Parliament, when by the treaties with the Landgrave of Heſſe, which lay upon the Table, it was expreſsly ſtipulated, what the pay of the Heſſians ſhould be, in caſe they ſhould be brought into theſe kingdoms. Thoſe treaties, he obſerved, had been upon the Table more than a twelvemonth, which was a pretty long notice of the poſſibility of ſuch an event's taking place as their being landed in this country; nor was there any novelty in the ſtipulation to which he alluded, as the ſame ſtipulation was to be found in moſt of the treaties with the Landgrave of Heſſe. Add to this, his Majeſty's meſſage was ſpecific and particular in its mention of the matter; and as the Houſe had voted an addreſs upon that meſſage, he really did not conſider the caſe to be ſuch as required a Bill of Indemnity, and there-

fore he ſhould feel himſelf obliged to vote againſt the motion.

The Earl of Carliſle roſe to ſpeak a few words to one or two particular points. He owned, he ſaw no neceſſity for bringing an abſtract propoſition under diſcuſſion, and he wiſhed it had not been introduced, becauſe in his mind the queſtion, whether the landing of the Heſſian troops under the peculiar circumſtances of the caſe, called for an Indemnity Bill or not, might juſt as well have been debated and decided, without entering upon any abſtruſe conſtitutional point. For his part, if he were called upon to declare his opinion, whether the King had authority to land foreign troops in the kingdom without the conſent of Parliament, he ſhould ſay without heſitation, as the Noble Duke who had juſt ſat down had done before him, that he had no doubt the King had no ſuch authority, and that the landing of ſuch troops in that manner was an encroachment on the conſtitution; but he ſaw no reaſon whatever to blend that abſtract queſtion with the diſcuſſion then before the Houſe. The ſole queſtion for conſideration was, whether a Bill of Indemnity was neceſſary or not. It had been admitted on all hands, that his Majeſty's miniſters had not acted in the affair of landing the Heſſians *malo animo*; no criminal intention had been imputed to them. To what end then paſs a Bill of Indemnity? He conceived a Bill of Indemnity to be only neceſſary, where miniſters had done what was wrong, and then ſuch a Bill was abſolutely neceſſary to cure the error. That was not pretended to have been the caſe at preſent. Another reaſon why he ſhould be againſt the queſtion was, he did not like the practice of frequently paſſing Bills of Indemnity, becauſe it took from their importance and weakened their effect. The ſubject under diſcuſſion reminded him of another caſe which occurred ſome years back, when that venerable Peer, the Lord Preſident of the Council (a character always ſure to be mentioned with every poſſible reſpect and attention), took upon him to ſhut up the ports for ten days, and prevented the exportation of corn, in order to avert a famine, of which great and ſerious apprehenſions were entertained, and which might poſſibly have happened, had not the Noble Earl in queſtion taken the ſtep he did. On that occaſion a Bill of Indemnity was propoſed, but the Noble Earl rejected the offer, conſcious that the exigency of the caſe was ſufficient for his juſtification. Lord Carliſle made a few obſervations on what he had ſtated, and concluded with declaring that he ſhould vote againſt the motion.

The Marquis of Lanſdown ſaid, that when he came down to the Houſe, he did not know in what manner the queſtion was

to

to be taken up; not from any neglect of the Noble Earl, who brought it forward with ſo much honour to himſelf, and credit to his friends, but only from his own want of attendance, ariſing from confinement at home, through indiſpoſition, and engagements elſewhere on different avocations. The Marquis complimented the Noble Earl on having made his firſt appearance in that Houſe in ſo diſtinguiſhed a manner, declaring, that he never had heard a young ſpeaker ſtate a matter of equal importance ſo well. He had ſhewn moſt clearly the neceſſity of that diſcuſſion, for which the Houſe and the country owed him their particular thanks. He ſpoke alſo in very handſome terms of the arguments advanced by the Noble Earl who had riſen ſecond in the debate (Earl Spencer), and declared, that he had been ſo impreſſed with the Noble Earl's arguments, that he would have voted with him againſt the Bill, had he been able to follow his own inclinations; but he confeſſed, though at firſt againſt the motion, upon the principle on which a private man would decline producing the title-deeds of his eſtate, unleſs obliged to do it, he had been ſatisfied by hearing all the arguments, that the Noble Earl had ſtrong grounds for his motion. The Marquis conſidered the queſtion, not as an abſtract queſtion, not as a theoretical, not as a ſpeculative, not as a metaphyſical queſtion, not as a doubtful queſtion, nor as a party queſtion by any means, but as a conſtitutional queſtion of infinite importance, on which all their liberties depended immediately, and the exiſtence of the firſt principles of the conſtitution itſelf. He diſdained to put the queſtion on narrow ground; it was neither more nor leſs than he had deſcribed; and he conceived it to be a clear, practical, and fundamental principle, ſtanding upon the ſame ground with the right of juries, or any other of our fundamental rights, and equally eſſential to the preſervation of public liberty; inſomuch that the very queſtion of it was a ſubject of juſt alarm. An attempt had been made to avoid ſuch diſcuſſions on the ground of their being unneceſſary; becauſe to agitate doubts upon a ſubject where there really were none, ſome Noble Lords thought was dangerous; he thought it no more dangerous than (as he had juſt ſtated) if any one of their Lordſhips was to conſult a lawyer about the title of his eſtate, when it was not challenged; and as to being unneceſſary, that day's debate was a complete anſwer.

His Noble Friend had gone upon the beſt grounds; and taking all the circumſtances, argued as they had been, what could be ſo proper a way of bringing the queſtion before the Houſe, and ſetting the point at reſt, as by moving for a Bill of Indemnity? the beſt, the moſt inoffenſive, the moſt harm-

leſs, the moſt mild and proper it certainly was. As to precedents to ſhew him that the introduction of foreign troops was illegal, he had not looked to any; it was plain to common ſenſe that our forefathers, when ſettling thoſe important rights of the people with ſo much ability, ſo much integrity, and with ſuch tenacioufneſs, could not have been ignorant, that, if this had been neglected, all their other labours would not have been of the ſmalleſt avail. The reaſon why he had not looked into precedents was, becauſe a point ſo interwoven with the principle of every free government, and with that of England in particular (as might be proved from the hiſtory of the moſt *ancient* times), and ſo directly oppoſed to the times in which we live, muſt ſtand its ground, independent of all precedent. But the Marquis ſaid, if there were precedents favouring the introduction into this country of foreign troops, it would only prove the neceſſity of another *declaratory* law, like the *Bill of Rights*.

The Bill of Rights had been truly ſtated to be a declaratory law; but it was wiſely confined, to remedy the bad precedents which are there condemned; and, among others, the keeping a ſtanding army of *natives*, without the conſent of Parliament, as had been done by James II. Does any one think that an army of *foreigners* would not have been condemned, *à fortiori*, if that Prince had attempted it, or if the Convention of that day had apprehended it? Or can it be argued, that the declaratory principle, which refers to the *leſſer* evil, does not of courſe exclude the *greater*?

In point of fact, however, the Marquis ſaid, the principle had been declared in the moſt pointed terms in 1641; from which time it had never been queſtioned, and much leſs tranſgreſſed; and therefore it was totally needleſs for the Bill of Rights to repeat it. In that period, of 1641, ſome of the ableſt men perhaps which this country ever bred, were animated with a real love of the conſtitution, and governed by wiſe and ſound principles; in which if they had continued, and the King on his part had not attempted to carry things with ſo high a hand, every one agreed that nothing but happineſs could have enſued to King, Parliament, and people; but unhappily, confidence was in two or three years afterwards loſt, and confuſion followed.

The law, however, ſtood under this revolution for nearly one hundred years, till 173; ſince which time, the whole ſtream of precedents which had been quoted, recogniſe the illegality of the practice in queſtion, till 1775, a period too much reſembling the preſent, when the ſame principles were brought forward. They were ſoon, however, ſo effectually

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ſcouted, that in 1782, when the queſtion occurred again, previous application was made to Parliament, and a proper precedent eſtabliſhed. The Marquis ſaid that he was happy to have ſhared the credit which belonged to ſo correct a meaſure. It reſted with others to explain why it was not exactly followed in 1784: Having had nothing to do in that concern, it was for others to ſhare it among them.

With regard to the neceſſity or number of the troops, the Marquis ſaid, he thought it of no manner of conſequence; for, if the point was wanted to be carried, a pretence might eaſily be framed for the firſt number; and if miniſters could legally bring in fifty, they might ſoon find the way to augment that fifty to a thouſand, and ſo on to any number whatever. The Noble Secretary of State had ſaid, that Parliament had its ſecurity in the various checks conſtitutionally veſted in them, ſuch as the not voting the ſupplies for them, and not paſſing bills to provide for their diſcipline or their quarters: Before much ſtreſs was laid upon this aſſertion, he ſhould wiſh the Noble Lord would ſtate how long, in his opinion, if thirty thouſand Ruſſians, thirty thouſand Heſſians, and thirty thouſand Pruſſians, all armed, were landed in this country, Parliament would think it prudent to withhold ſuch ſupplies as might be neceſſary for their ſupport, or any other meaſure that they ſhould demand? The Noble Lord had alſo ſaid, that if any attack was made on this country, theſe Heſſians might poſſibly be employed in our defence, though, he admitted, not without an application to Parliament, by another meſſage from the Crown, for that purpoſe; he believed the Noble Lord, however, would not venture to make ſuch an unconſtitutional propoſition. If there was now, or ſhould be at any future time, an intention to invade Great Britain, it was the duty of miniſters to provide in time againſt the conſequences; they had abundance of means in their power; the whole kingdom was full of internal means of defence, and might be ſaid to be an almoſt inexhauſtible reſource; at any rate it would be highly cenſurable to employ a ſingle foreigner for our internal defence, eſpecially while we had Britiſh troops fighting on the continent. On the firſt appearance of ſuch an intention, they ought to be ſent for home; and not by exciting the appearance of jealouſy of thoſe whoſe duty and inclination would be to preſerve their country, truſt our defence to thoſe who had no intereſt whatever in our preſervation. He was confident the people of this country might ſafely be truſted to undertake their own defence; but whether that was the caſe in another kingdom, ſubject to the Britiſh Crown, he thought it was well worth the miniſter's while to attend to; certainly the two

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iſlands were very differently circumſtanced. He touched this topic ſlightly, becauſe he was ready to admit that it was a delicate point, and he only meant to give a hint. For his own part he felt no apprehenſion of any ſort reſpecting the ſafety of the country to which he had alluded.

With reſpect to precedents, the Marquis ſaid, he did not put implicit confidence in them, becauſe they were the mere tranſactions of Parliament; and he believed every man, who had paid any attention to the ſubject, had been aſtoniſhed at the abſurdities which had met Parliamentary ſanction. A ſtriking inſtance of this was the ſeven years war, previous to the peace of Aix-la-Chapelle, which coſt this country ſeventy-eight millions of money: And he was old enough to remember that both Houſes of Parliament were unanimous in their ſentiments and votes during the war; though, after the peace, they were as unanimous in reprobating the ſyſtem upon which it had proceeded.

It was wonderful, upon examining the Journals, to ſee what violations of the conſtitution had eſcaped the notice of Parliament. The fact was moſt undeniable. Parliament had overlooked a great deal too much; but God forbid that their having committed ſo fatal an error in various ſtriking inſtances, ſhould be made a precedent why they are to do ſo ſtill; and perſiſt in their negligence and inattention, when occaſions preſent themſelves that call for the utmoſt vigilance and the utmoſt caution.

By the turn of the preſent debate, it would ſeem that miniſters, finding, as in 1775, that Parliament and the Public were too much awake to give way, were diſpoſed to retract pretty much in the ſame manner. If they would be content, indeed, to leave it where a Noble Lord (Earl Spencer) had placed it, the majority of their Lordſhips might think it ſafe.

But not one of the Noble Lords on the other ſide, at the ſame time that he gave way, did ſo without ſome reſervation, or attempt at reſervation; which plainly proved that they acted from neceſſity, and not from conviction, and cannot ſuffer the wound to be probed and cleanſed to the bottom.

One Noble Lord ſays, that he has not had time to make up his mind upon ſo great a queſtion; and that it is neither legal nor illegal abſtractedly, but depends upon the practice. Another Noble Lord ſays, that it is a queſtion which ſhould never be decided. The Noble Secretary of State declares, in the *ſtrongeſt* terms, that it is illegal to *keep* foreign troops; but adds, in gentler terms, that he is *diſpoſed* to believe it legal to *introduce* them till Parliament meets, who ſhould be informed immediately; and he is likewiſe *diſpoſed* to think it legal to

employ them, in caſe the kingdom was in ſuch a ſituation as that in which it was laſt year, or in caſe an invaſion was attempted, while they happened to be aſſembled on the coaſt for offenſive operations.

As to the dangers of laſt year, the Marquis obſerved, they remained to be proved, ſtill reſting on the word of miniſters, who had not made good their aſſertions in a ſingle inſtance. But whatever might be the dangers from without or from within, it was the duty of miniſters to foreſee ſuch dangers; and if foreſeen in due time, there could not be a doubt that this kingdom at leaſt poſſeſſes the means to provide againſt both, without being indebted either to allies or to foreign mercenaries.

As to mercenaries: The diſtinction between keeping and introducing ſuch (which the Noble Lord was diſpoſed to believe), cannot, ſaid the Marquis, hold water a ſingle moment. But the dangers of mercenaries, the bad economy of employing them, the diſgrace, and the little neceſſity there can be for having recourſe to them; all theſe points cannot be more forcibly ſtated, than they are by an important Noble colleague of the actual miniſter's, then preſent. [The Marquis of Lanſdown here evidently alluded to Lord Hawkeſbury.] It would be plagiariſm to repeat in the debate the paſſages in point, in the Noble Lord's pamphlet on "The Eſtabliſhment of a National and Conſtitutional Force in England," lately reprinted; but they well merited the deepeſt attention *.

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* The following are ſuppoſed to be ſome, among the various paſſages in this very able and truly conſtitutional work, to which the Marquis appeared to allude, and which not only refer to the ſubject of *foreign mercenaries*, but to other topics touched upon in the courſe of the debate.

"The expence of foreign mercenaries would alone be a ſufficient objection to them, which is greater in every particular than the charge of a ſtanding army of native ſoldiers; for beſides their ſubſiſtence, which they receive at the ſame rate as our national troops, we pay for them ſubſidy-money,—levy-money,—tranſporting-money,—recruiting-money; every one of which articles are carried to a vaſt height; and for ſome of them we pay double what they coſt the Prince who ſupplies them. But the more material arguments againſt them is, that they are more dangerous even than a ſtanding army can be to our conſtitution. I ſhall here ſpeak with caution; for if I was to urge all the objections which *might* be brought againſt troops of this ſort, eſpecially at a time when we are under the unhappy neceſſity of employing them, I may appear, perhaps (what I am ſure is not my intention), deſirous of inflaming. My countrymen may form ſome idea of their danger, from one or two inſtances

The Marquis ſaid, that doctrines had been brought forward in the debate, which went much beyond what the preciſe ſubject

inſtances in their own hiſtory. Troops of this ſort have always been unuſeful or dangerous to whoever employs them. Their conduct at firſt has generally been peaceable and enſnaring—at laſt ſeditious and deſtructive; and thoſe ſtates that have carried the points which they intended by their aſſiſtance, have uſually, in the event, been enſlaved by them. Machiavelli ſpeaks fully on this point. "Mercenaries," he ſays, "are uſeleſs and dangerous, and a government founded on an army of ſuch, will have no ſtability or ſecurity." And afterwards he aſſigns the reaſon, namely, "that they have no attachments or motives to hold them together but their pay, which is inſufficient to inſpire them with any deſire of dying in the ſervice of their employers." And after having produced a great number of examples out of the hiſtory of the Italian ſtates to prove this, he concludes, "that it has always been the opinion given by wiſe men, that nothing is ſo infirm and unſtable as the reputation of a power which is not founded upon its own force." There is alſo a farther reaſon, which Machiavelli was not aware of, that particularly diſqualifies a free people for any army of this nature;—the unreaſonable jealouſies which ſuch a nation will contract concerning them, and the ill-treatment they will in conſequence thereof, perhaps, ſhew to them, may provoke the moſt regular and beſt diſciplined troops to do that, through reſentment, which through inclination they never intended. Never ſurely did troops behave themſelves with more exact diſcipline than thoſe which *our Legiſlature* has thought proper to *invite at preſent* to our aſſiſtance [1756]; and yet I would aſk the good-natured part of my countrymen, whether, on this occaſion, their own ardent and laudable love of liberty, through a miſtake in the application of it, has not treſpaſſed a little on their humanity? And if all the above arguments were inſufficient, it is certainly beneath the dignity of a great and independent nation to rely upon thoſe for its defence whom they are not ſure they can always obtain when they want them, or even keep when their ſervice is moſt required. * * * *

"A militia, conſiſting of upwards of 60,000 men, will coſt, one year with another, under 160,000l. and will put the nation to no further charge, but only during the time of an actual invaſion:—A regular ſtanding force, of the ſame number, will exceed two millions a year—8000 Heſſians, with all the concomitant expences, for this ſummer's ſervice only, will coſt near 800,000 l. and the whole of the expence of the land forces for this year (though we ſhall have acted every where on the defenſive) will probably exceed three millions; and though the eſtabliſhment of this year will not be equal to the number propoſed by a militia by ſeveral thouſands, it will ſurpaſs it in expence by almoſt twenty times the ſum. I calculate only in the groſs, for my argument does not require exactneſs. * * * *

"No

ject called for; and ſo comprehenſively dangerous were they, that they required to be reprobated in the moſt diſtinct manner:

"No country ever made, in a few years, ſo great a progreſs in trade as the United Provinces. Their ſhipping was at one time computed to be more than what belonged to all the reſt of Europe put together; and yet their wealth and commerce increaſed in this prodigious manner while they were engaged in a war of fifty years continuance in the heart of their own country; while moſt of their trading towns were fortreſſes garriſoned by burghers, and while the natives of this Republic, from eighteen years of age to ſixty, were obliged, by the union of Utrecht, to be armed and trained; but ſince this firſt eſtabliſhed militia has been neglected; ſince they truſted their defence to foreign mercenaries; and ſince of late they have hardly been defended at all, their commerce has been gradually on the decline. * * *

"Could the arms of Philip, conducted by *the genius* of the Prince of Parma, ever penetrate far into *her* country? and did not the ſieges of Harlaem, Alcmaar, and Leyden, when they were garriſoned only by their own burghers, break the ſpirit of the Spaniſh veterans? and yet this very country was over-run, and moſt of her towns taken in the ſpace of a month, in the year 1672, when the defence thereof was entruſted to 25,000 mercenaries. * * *

"It is by means of ſuch an inſtitution as this, that the little country of Switzerland is able to call together fourſcore thouſand brave men at all times for its defence; and ſo ſmall is the charge of maintaining them, that although the people of this republic are leſs loaded with taxes than thoſe of any part of the world beſide, yet they are able to ſave out of their common revenue a conſiderable ſum of money yearly, which they keep in their treaſuries againſt any emergent occaſion; and the ſurpriſing acts of valour which this militia has performed, have induced an ingenious writer to draw a parallel between the military atchievements of this little collection of Cantons, and thoſe of the free ſtates of Greece. * * *

"The firſt and principal objection that has been made to this bill is, 'that it will abridge the prerogative of the Crown, to whom the executive power over the militia is ſaid to have always belonged, by obliging the King, before he calls it into actual ſervice, to communicate the occaſion thereof firſt to Parliament.'

"I am ſorry by this objection to find a diſpute again ſtarted, which ſo much divided the lawyers and antiquarians of the laſt century, and was one great cauſe of all the blood that was ſhed in thoſe unhappy quarrels; eſpecially as the various claims of power ſeem to be fairly compromiſed by this clauſe; the command of the militia being given neither to the Crown nor to the Legiſlature ſeparately; the principal part, however, of the execution being lodged in the King, ſubject, in the caſe alone of calling them out, to one reſtriction from the Parliament. And if the ſentiments of the wiſeſt men, unſupported by arguments, could ſingly have any weight on a rational

ner: Such as, that whatever the Crown does, is of courſe legal, if it is found afterwards to have been beneficial or neceſſary.

mind, I could ſafely reſt this point on the opinions of Mr. Selden and Mr. Whitlock; the firſt of whom ſpoke ſo warmly in the Houſe of Commons againſt the ſole power that was claimed by Charles the Firſt over the militia, that the court imputed to the influence of his arguments, more than any thing elſe, the vote that was paſſed againſt them on that head; and the latter as plainly declared in the ſame place, 'that the power of the militia was not, according to law, ſolely in the Crown, but in the King and Parliament jointly;' and yet theſe men were not looked upon as over-violent ſpirits in thoſe days. Charles had ſo good an opinion of the former, that he deſigned the higheſt employment of the law in his favour; and whoever peruſes the ſpeech of the latter, from whence the above ſentiment is extracted *, will be ſufficiently ſatisfied of his moderation. * * *

"The Parliament did hereby empower the King (Edward III.) to call out the militia on an urgent occaſion; yet they ſhewed that they would themſelves be 'judges of that occaſion,' and that no original right or power of that nature was in the Crown, but ſuch only as they were pleaſed to allow it; and ſo cautious were they in this reſpect, that they would not let 'neceſſity in general' ſtand as the foundation of this grant, but they were reſolved to explain 'this neceſſity' themſelves. It ſhould be only 'the coming of foreign enemies into the realm;' ſo that it did not relate 'to domeſtic troubles or rebellion;'—it ſhould alſo be 'the ſudden coming;' ſo that probably the invaſion muſt be actual before they could be drawn out of their counties, and not the apprehenſion of it only; —it muſt not be of public notoriety, or of which any preceding information could be obtained; for in ſuch caſe the ordinary courſe of Parliament muſt be taken: And as a proof of this, we find that two acts were paſſed in this reign, expreſsly for calling out the militia on two particular occaſions. * * *

"One farther conſideration has been urged on this occaſion, which can never, however, with propriety be mentioned where the power of the Crown is debated, and that is, the CHARACTER OF THE EXCELLENT PERSON who wears it. The love of ſuch a Monarch might induce a loyal people to reſign their rights, if he had not too much virtue to accept them. Not a wiſh for power has appeared in any one action of his reign; his ſubjects could not deſire to be more free than he would have them; he has ſhewn himſelf fully ſatisfied with the lawful authority of a Britiſh King, whoſe peculiar happineſs it is, that, to do good, his power is without bounds;—to do wrong, he has conſtitutionally no power; ſo that in a political ſenſe he may truly be ſaid to be bleſſed with the knowledge of good, without being curſt with that of evil; whoever;

* See the ſpeech in Ruſhworth.

therefore,

ſary. That, in conſequence, acts of indemnity are never requiſite; for if Parliament find the meaſure beneficial or neceſſary, it is legal; and if otherwiſe, an impeachment, and not a Bill of Indemnity, becomes the province of Parliament. And again, that it is out of the way to reaſon upon what a bad Prince upon the throne might attempt or effect. But the Noble Lord ſaid, that if it was thus abſurd to ſuppoſe the poſſibility of a bad Prince, all our barriers in favour of liberty were ſuperfluous, experience proved nothing, and hiſtory was a lie. In like manner, if every thing the Crown did during the receſs of Parliament was legal, if it was beneficial, Parliament becomes little more than a negative aſſembly. In all matters of prerogative, it ſeems, therefore, that miniſters in future are to be *defendants*, and the public *plaintiffs*; that the burden of the proof is to reſt upon the latter, and the preſumption to ſtand in favour of the former; which is a new and monſtrous doctrine.

therefore, would put him in a capacity of knowing the latter, is ſo far from being a friend to his Prince, that he is his great enemy and ſeducer; one who would drive him from his ſtate of innocence and perfection, and rob the Crown of its moſt diſtinguiſhing prerogative; which makes it more ſecure and glorious to him that wears it, than that of any abſolute monarchy can be. * * *

"But it may further, perhaps, be urged, 'that a militia is unneceſſary, ſince we may be better defended by augmenting our national army, or by hiring foreign troops.' I ſhall anſwer plainly to this objection, that both theſe methods are dangerous and unconſtitutional. I entertain not thoſe abſurd apprehenſions of a ſtanding army that poſſeſs ſome people, neither do I think that 20,000 ſoldiers of that ſort could ever be deſtructive to our conſtitution; but I am confident that an army may be ſo far augmented as to become deſtructive. I entertain alſo the higheſt opinion of the officers of our preſent army; I believe them to have as warm a regard for their country as any native whatſoever. Many of them are men of property, others are heirs or allied to families of property, and would loſe as much in the general wreck as any; but I am ſure that theſe gentlemen will agree with me, that in ſome future century it might be poſſible to alter and model ſuch an army, and make it conſiſt of perſons not ſo public-ſpirited as themſelves; and if its numbers ſhould happen at that time to be conſiderably augmented, no more, perhaps, than what would be abſolutely neceſſary for our ſecurity againſt a foreign invader, I ſhould then (if I chanced to live in ſuch an age) be ſeriouſly apprehenſive indeed for the liberties of my country. * * *

"The force of Magna Charta is by no means diminiſhed, though repeated uſurpations obliged the people to inſiſt more than thirty times on its confirmation."

of Parliament, ſhall be adjudged and reputed a public enemy to the King and kingdom."

II. Becauſe the Annual Mutiny Bill is a proof that the Crown cannot perpetuate, or aſſume a prerogative which Parliament annually beſtows; nor exerciſe, at its own diſcretion, that power which the Legiſlature eſpecially limits.

III. Becauſe it is a moſt dangerous doctrine, that the Crown has a right, by virtue of an undefined prerogative, to do any act which is not warranted by common or ſtatute law, under the frivolous pretence of its appearing to miniſters to be uſeful. And the ſupineneſs of Parliament in the reign of James the Second, when ſo many acts, notoriouſly illegal, were committed by the Crown, and yet paſſed *unnoticed* in the two Houſes, clearly prove, that from the want of vigilance in certain Parliaments, *precedents may be eſtabliſhed*, ſubverſive of national freedom.

IV. Becauſe the maintaining of a foreign army on the eſtabliſhment, or within the territory of this kingdom, is in open defiance of the very Act of Parliament which ſettles the Crown on the preſent Royal Family, namely, the 12th and 13th of William III. chap. 12. which expreſsly enacts, "That no perſons born out of the kingdoms of England, Scotland, or Ireland, or the dominions thereunto belonging (although he be naturalized or made a denizen, except ſuch as are born of Engliſh parents), ſhall be capable of being employed in any office or place of truſt, either civil or military." And the Act of the 29th Geo. II. chap. 5. is a proof that the Legiſlature deemed it a ſpecial act of Parliament, to employ even a limited number of ſubaltern officers only, under certain reſtrictions and qualifications.

V. Becauſe foreign mercenaries have always been unuſeful, or dangerous, to whomſoever employ them. Their conduct has generally been peaceable and enſnaring, at firſt; at laſt, ſeditious and deſtructive. And thoſe States, that have carried the points which they intended by their aſſiſtance, have uſually, in the event, been enſlaved by them.

VI. Becauſe a prerogative in the executive power, to introduce any number, without limit, of armed hirelings, into any country, without the previous and expreſs conſent of the Legiſlature, is totally incompatible with any form of a free conſtitution. For not only that government is tyrannical, which is actually tyrannically adminiſtered; but that government alſo is tyrannical, however adminiſtered, where there is no ſufficient ſecurity againſt its being tyrannically adminiſtered in future. And I ſolemnly proteſt againſt meaſures which

which tend to endanger the rights and liberties of my fellow-citizens, of whom I conceive myſelf only as a truſtee.

STANHOPE.

Againſt the Rejection of the Indemnity Bill, for the landing of Troops in this Kingdom without the Conſent of Parliament; which was moved by the Earl of ALBEMARLE.

I. Becauſe, with the exception of only one Noble Lord, not one of his Majeſty's miniſters, it was in the debate unanimouſly admitted, that the keeping in this country troops, whether native or foreign, in time either of war or peace, without the conſent of Parliament, is unconſtitutional. And as it was alſo admitted unanimouſly and unequivocally, that the troops in queſtion are here upon grounds of fitneſs and expediency; and as the conſideration of fitneſs and expediency, though they render, and, in fact, in the preſent inſtance do render, not only juſtifiable, but highly meritorious, do in no degree ſo change the nature as to make it more or leſs conſtitutional.

II. This Bill, though of a nature to be very ſparingly adopted, yet was of particular propriety; for in a matter of great moment, it declared the law, ſaved the conſtitution, and did juſtice to the motives of the executive government.

III. Becauſe the ſtopping of this Bill leaves the troops here, without any conſent of Parliament.

IV. Becauſe the effect of the declarations by which the right of the Crown ſo to keep troops here was diſclaimed, however ſtrong, general, and unequivocal, is yet tranſitory and fugitive; but the fact that troops are ſo here, is notorious and recorded; and when the motives which juſtified, and the declarations that reconciled to the Houſe the meaſure, are forgotten, may be turned into precedent.

27th Feb. 1794. RADNOR.

MUTINY BILL.

Upon the motion of the *Duke of Norfolk*, it was ordered, that the Houſe ſhould be ſummoned for Tueſday the 25th, when his Grace ſaid, he intended to move for the recommitment of the Mutiny Bill, for the purpoſe of introducing a clauſe ſubjecting the Heſſian troops in this country to the regulations of that Bill.—Ordered.

The Houſe then adjourned.

HOUSE OF COMMONS.

FRIDAY, *February* 21.

The Houſe, in a Committee of Supply, voted, "That proviſion be made for the pay and clothing of the militia

for the year 1794." The report was ordered to be brought up on Monday the 24th.

A petition was preſented from Mancheſter againſt the Rochdale Canal Bill, and referred to a Committee.

Two petitions were preſented againſt the Wyrley Canal Bill, and referred to a Committee.

The Warton Incloſure Bill was read a third time, and paſſed.

Petitions for Bills to regulate the Thames Watermen, the Bedford Poor, and for repairing the Bawtry, Bradford, and Beaconsfield Roads, were preſented, and referred to different Committees.

PENNY-POST.

Upon motion, it was reſolved, that the Houſe do reſolve itſelf into a Committee of the whole Houſe, to conſider of regulations relating to the Penny-Poſt Office. It was alſo reſolved, that it be referred to the conſideration of the ſaid Committee, to conſider of regulations to be adopted with reſpect to the eſtabliſhment of a packet communication between this country and the iſland of Guernſey.

ATTORNIES.

Mr. Rolle requeſted the Speaker to inform him, whether there was not a ſtanding order againſt the reception of any petition in that Houſe, entreating the retraction of a tax which might have been voted towards the ſupplies to be granted to his Majeſty, before that tax had actually been levied and found burdenſome and oppreſſive. The cauſe of this inquiry he ſtated to be the notice he had received of a petition about to be preſented againſt the Tax upon Attornies.

The Speaker informed him that it was againſt a rule eſtabliſhed a century ago, to receive any petition whatever relating to ſupplies in the courſe of the ſeſſion in which they were voted.

NEUTRAL POWERS.

Mr. Grey ſaid, that as it was his intention to bring forward the diſcuſſion concerning the conduct of the Britiſh Court towards Neutral Powers, for the better inveſtigation of the ſubject, he wiſhed to have certain official documents laid before the Houſe, which he deemed eſſential to its elucidation. He therefore wiſhed to know, whether he ſhould meet with any oppoſition in moving, on a future day, for their production.

The Chancellor of the Exchequer wiſhed to know what the papers were to which he particularly alluded.

Mr.

Mr. Grey anſwered, that he meant all the official communications that had paſſed between his Majeſty's miniſters and the miniſters of Denmark, Sweden, Genoa, and Florence; and likewiſe the order of Council that was iſſued on the 6th of November laſt, relating to the ſeizure of American veſſels.

The Chancellor of the Exchequer replied, that to the production of the laſt-mentioned document he ſhould have no objection; but as to the others, he could give no anſwer till he had further conſidered the ſubject.

SLAVES.

Mr. Vaughan expreſſed his opinion of the neceſſity of making ſome obſervations on the late proceedings of the French, reſpecting their negroes and mulattoes, on which the ſafety and tranquillity of our Weſt India iſlands ſo materially depended. It was notorious, he ſaid, that every exertion had lately been made to diſſeminate among the ſlaves of the French iſlands the moſt dangerous doctrines; and that, in fact, theſe doctrines had not only been diſperſed in the iſland of St. Domingo, but alſo proclamations had there been made by a Monſ. Polverel, giving a moſt dangerous extenſion of liberty and property to all the negroes of that Iſland; among other inſtances, a right to chuſe their maſters once a year, and to receive a third of the product of their labour, deducting the expences, &c. and out of the two thirds which remained, the planters were to pay all taxes: That they were to have a choice in the appointment of perſons who were to preſide over them, in the management of the eſtates, and the education of their children, &c. &c.

From theſe articles he feared ſome danger might enſue, unleſs ſpeedy and effectual meaſures were adopted to prevent it. Nor was the danger only to be feared from theſe decrees, but from the reſolution alſo of the National Aſſembly, which tended to eſtabliſh a general emancipation. It was a maxim that ſmaller events might be concealed, but that greater events quickly communicated themſelves; and this was peculiarly to be dreaded in the preſent inſtance. He was aware that our ſmaller iſlands were under no inſtant apprehenſions, becauſe there was a ſufficient protection, as the force of all of them might be brought to act againſt the revolters in any one of them; but Jamaica was left to its own reſources, which were happily not inconſiderable, as it had a fine militia, and might on occaſion recall its troops from St. Domingo. But nevertheleſs things ought not to remain in this ſituation. He thought the preſent ſtate of affairs called for ſtrong and early meaſures, both from Government here, and the

Colonial Legiſlatures abroad. He then took a comparative view of the negroes and the whites, and thought that if a mulatto and black yeomanry on our part was eſtabliſhed, it might effect ſome advantages: That a conqueſt of the French iſlands would prove but a palliative, as the French had waſted 12 or 15,000 troops, in an attempt to reſtore order in their iſlands, but in vain: That in St. Domingo the iſland was ſaid to be divided between the blacks, browns, and whites, who ſtand poſſeſſed of property; and the blacks, browns, and whites, who have none; which was not a ſituation for us to envy: That a conqueſt might even do miſchief by opening an intercourſe with perſons whoſe principles could do our mulattoes and negroes no ſervice. He did not at preſent intend more than to draw attention, and obtain aſſurances which ſhould quiet alarms, and therefore he ſhould not wiſh to *preſs* any motion on the ſubject. One motion he had certainly to make (for the ſake of form), which it was optional to accede to or reject. This was, "That an Addreſs be preſented to his Majeſty, requeſting his Majeſty to recommend ſuch meaſures for the ſafety and tranquillity of the Britiſh Weſt India iſlands, as his Majeſty in his wiſdom ſhall think fit."

Mr. Jekyll ſeconded the motion.

Mr. Secretary Dundas objected to the motion, becauſe the Hon. Gentleman did not inquire whether his Majeſty's miniſters had made any regulations in conſequence of the decrees of the Colonial and National Aſſemblies, or whether they propoſed to do ſo. The motion, in his opinion, was intended to convey an inſinuation, that his Majeſty's miniſters were regardleſs of their duty, and, however general it appeared, might be ſuſpected of ſome perſonal prejudice. No one ſurmiſe, however, had been ſtated, he ſaid, to warrant the inſinuation of neglect; and, in fact, the Weſt Indies at this moment received every attention which the motion could tend to excite.

Mr. Vaughan explained, that there was no perſonal diſapprobation, that he was not conſcious of any neglect in the Executive Power, nor would he doubt that the meaſures of the miniſters might be effectual, if any meaſures relative to his motion were in force or agitation. His motion was calculated ſolely for the ſafety of the iſlands, and to give ſuch information to the miniſters as they might not have the means or leiſure to procure. As he was not in the habits of perſonal intimacy with them, and adjudged it expedient to be vigilant in the counteraction of evil, which was more eaſily to be prevented than be ſuppreſſed when it had once obtained exiſtence, he concluded, that by bringing forward a motion of this nature,

ture, he ſhould ſave trouble and ſuſpenſe. If the miniſters had not been apprized of the neceſſity of ſome regulations on the ſubject, they might thus become ſo; or if they were, and had adopted them, the Public would gain the beſt and earlieſt aſſurance of it, and the merchants, who might have otherwiſe aſſembled at the London Tavern on this occaſion, would be ſatisfied of the protection of their property. Since, however, his motion was thus happily anticipated, and made uſeleſs, to prove that he had no ſuſpicions or perſonal diſapprobation, he was willing to withdraw it.

Motion withdrawn.

HALIFAX AND NOVA SCOTIA.

Mr. Sheridan roſe to make his promiſed motion relative to the unprotected ſtate in which Nova Scotia had been left during the laſt campaign, on which ſo much had been ſaid in former debates. For Members of Parliament who thought as he did, and who had endeavoured to avert the war in its origin and prevent its continuance, there only remained two important duties in circumſtances like the preſent. Having diſcharged the firſt of theſe by endeavouring to obtain peace, the ſecond was to watch over the conduct of miniſters, and to ſee that the ſupplies voted for proſecuting the war, and wrung from the pockets of their conſtituents, were faithfully and diligently applied. He obſerved, that when, upon a former day, he had directed the attention of the Houſe to the defenceleſs ſtate of Halifax, of Nova Scotia, and New Brunſwick, his aſſertions, though ſupported by indubitable teſtimony, had not only been denied, but it was ſtated to be dangerous to make inquiries into the proceedings of the Executive Power. Notwithſtanding this ſtatement, however, there were two duties, which, in his opinion, had a peculiar claim on him, and on the Parliament. Theſe duties were, firſt, to regard what ſums were neceſſary for the government and ſafety of the country; and ſecondly, when they had granted the money neceſſary for that purpoſe, to regard the application of it. If certain principles which miniſters had laid down were to be adopted, there muſt be an end of all inquiry. If it were true that no inquiry ought to be entered into during a war, on account of ſome danger with which it might be attended; then it would follow, that, the greater the miſconduct of miniſters, the greater muſt be the danger of the country. The very miſconduct which it was the duty of the Houſe to prevent or to puniſh, would be a concluſive argument againſt all inquiry. It would be as improper for the Houſe to be governed by ſuch rules, as it was indecent in miniſters

miniſters to bring them forward, for it w
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(Mr. Pitt) on the ſubject of the Ameri
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or commander, before a court martial, an
to evidence, condemn him or acquit him.
by this examination, did not inſinuate that
was ſummoned by this law was criminal.
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the nation, and much trouble was give
material loſs; for the perſons who were to
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reputed, and their ſervice required on an i
tion; witneſſes were brought from a great
court martial was employed. This he ſtated
principle of inquiry was recogniſed, and tha
ence of it in particular inſtances was far o
general good effects. On the motion for
forward by his Right Hon. Friend (Mr. Fox,
that to vote an inquiry into their conduct in
would ſerve only to give the merchants unrea
protection, which could never be realized, ar
propagate and increaſe complaints. This ſure
that they had not hitherto received ſufficient pr
they had, the Houſe upon inquiry would h
and by their deciſion put an end to all unreaſon
complaints in future.

[Mr. Sheridan was here interrupted by a meſſage
that the Lords had agreed to certain bills; immedia
the Gentleman Uſher of the Black Rod ſummone
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ed) " R. B. SHERIDAN.
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y twenty-ninth, 1794.
J. BLUETT,
" Falmouth."

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merly open, frank, bold, and hoſpitable, to the mean, cowardly, malicious diſpoſition of ſpies, eveſdroppers, and informers. He related an anecdote. A letter had been lately ſent to Nottingham for information on the ſtate of the manufacturers there. One of the wiſe inhabitants, who was perplexed to diſcover the meaning of this letter, remitted it to a Member of Parliament in London; the Member flew with trepidation to the Treaſury; the miniſter he ſuppoſes ſent it to the Attorney General, and this little harmleſs letter would probably ſoon be the cauſe of another proclamation. To diſcuſs any ſubject now was faction, and to make the leaſt inquiry ſedition. Such was the refinement of this doctrine, that it extended to our commerce, our trade, and our manufactures. A letter ſent under the cover of an Hon. Friend of his (Mr. Grey), had been obtained in the ſame reputable manner: And he did not know whether it might not be the cauſe of a new proclamation, or of calling out an extraordinary levy of militia, in an extraordinary way. The ſyſtem ſeemed to be to cut off all communication between Members of Parliament and their conſtituents; and he did not doubt but that, if all thoſe who had endeavoured to obtain, or who had given information, were in Scotland, they would be dealt with in the Star-chamber mode now in faſhion there, and be tried and ſentenced, like the unhappy wretches who had been accuſed and convicted of miſdemeanour; which mode of proceeding he declared to be diſgraceful to the Britiſh judicature, and which would have done no diſcredit to the worſt of the Stuarts.

A public paper (the True Briton), which he was juſtified in calling the Treaſury Gazette, ſince it was univerſally believed to be in the pay of the Treaſury, and was known to derive its principal and *only* intelligence from that ſource, had, with uncommon ſagacity and circumſpection, already intercepted a letter, and thus unfolded the myſterious ſecret.

Mr. Sheridan then read the letter, which, he ſaid, the editor of the True Briton had publiſhed in that paper on Wedneſday the 19th inſtant. The following is the copy:

"MR. ANONYMOUS DISCOVERED!!!

"Though Mr. Sheridan, in the courſe of debate in the Houſe of Commons, quoted a letter, the writer of which he was *unwilling to expoſe*, we can aſſure the Public, *that the letter had a name to it*, as will appear by the following anſwer, which was ſent to it by the *worthy* Senator:

"SIR,

" SIR,

" I am much obliged by your communication reſpecting Halifax. I mentioned the ſubject in the Houſe the firſt day of the ſeſſion, and I ſince find your intelligence confirmed in every particular. I ſhall be happy at all times to be favoured with any intelligence which you think may be made uſe of for the advantage of the country.

" I am, Sir,

" Your obedient Servant,

(Signed) " R. B. SHERIDAN.

" *Lower Groſvenor-ſtreet, Jan. 29th.*"

Directed—" London, January twenty-ninth, 1794.

" Mr. J. BLUETT,

" Falmouth."

" Free, R. B. SHERIDAN."

" The above letter went of courſe as it was directed, and was taken out of the Poſt-Office at Falmouth by the only perſon of the name of Bluett in that place, who happens to be a young midſhipman of about fifteen years of age. The boy's aſtoniſhment at the contents are not eaſily to be deſcribed—He handed the letter about the town, where it occaſioned no ſmall mirth; as that to the *Hon. Member*, to which the above was an anſwer, was thus proved to be one of thoſe *Corniſh hums* which ſome wag at Falmouth has practiſed upon ſeveral former occaſions with ſimilar ſucceſs.

" We ſhall hope to hear Mr. S. give this account of his FRIEND *Mr. Anonymous*, in the Houſe of Commons, with all that wit and humour which he ſo peculiarly poſſeſſes; but at the ſame time we muſt be permitted to hope, that he will in future take care to be *better informed* before he ventures to bring charges againſt the Executive Government."

On this letter Mr. Sheridan made many pleaſant comments. The cunning editor, he obſerved, had diſcovered, that an anonymous letter is a letter which has a name. This was an admirable proof of his diſcernment. In the next he had publiſhed a letter to prejudice the Public againſt him, and this letter ſerved to intereſt them in his favour: For, firſt, he was ſtated to be polite and civil in confeſſing himſelf obliged to the gentleman at Halifax; this cannot be very criminal: Secondly, he found the gentleman's intelligence confirmed; this proved the authenticity of his friend, and that he did not proceed with raſh precipitation, on vague or anonymous report: Thirdly, he ſolicited the favour of his intelligence in future, which honoured their connexion: And laſtly, he ſolicited it upon conditions only, whenever it may be to the uſe or ad-

vantage of his country; whereby he diſplayed his rectitude, zeal, and patriotiſm. What was there blameable in this? The editor had been pleaſed too to call him worthy Senator, marking the word *worthy* in Italics, thereby intimating either that he really believed him to be ſo, or that, in contradiſtinction to the miniſters, who are no patriots, every perſon muſt be unworthy who conſiders the *advantage* of his country.

But this is not all, ſaid Mr. Sheridan; for the learned editor has been pleaſed to ſubjoin ſome annotations of his own. Theſe he recited, and obſerved, that it was the firſt time he had ever heard of a *Corniſh hum*. From the knowledge he had of ſome of the Corniſh Members in that Houſe (and there were plenty of them), he could not ſuppoſe that the people of that country were ſo witty. He confeſſed it hard ſometimes to judge by ſpecimen. He had heard very frequently of a *Corniſh hug* and a *Corniſh borough*; but though he did not mean to inſinuate any diſreſpectful opinion of the people of Cornwall, the *Corniſh hum* was certainly a novel term. He was glad to find that Cornwall was as fertile in wit as it was prolific in Members of Parliament. One ſentence, however, he muſt object to; though the general tenour of the letter, he confeſſed, was like that which he had written. The ſentence he objected to was that which ſtated, that he had mentioned the ſubject in the Houſe on the firſt day of the ſeſſion. He never had hinted any word applicable to the ſubject on the firſt day of the ſeſſion, nor did he make any mention of Halifax whatever. Another abſurdity he laughed at was, that the letter was ſaid to come from Falmouth. He maintained, that it came directly from Halifax, as he was willing to ſhew, by the poſt mark, to any Corniſh burgeſs who might have the curioſity to view it. He ſaid he had now more than fifty letters of the ſame purport---ſome of them anonymous---ſome with the names of perſons who wiſhed not to be mentioned, becauſe to give any information to miniſters was to ſubject men in particular ſituations to inconvenience and even loſs, or becauſe if the information came from perſons connected with any particular colony, it might draw the wrath of miniſters on the colony itſelf; but much the greater part with the names of perſons who were ready to ſtand forward, and prove at the bar of the Houſe what they ſtated in their letters.

Mr. Sheridan ſaid, he regretted the abſence of Right Hon. Gentleman (Mr. Burke); a Gentleman, who a few nights ſince had pretended that the dependence of Nova Scotia was not neceſſary to the mother-country. He maintained that it

was

was eſſentially neceſſary, and would maintain it, though ſtill oppoſed; like a gentleman, who ſome years back had introduced the ſtory of a cat in his debate, that fondled a young kitten, and cried *Mew*; upon which he was called to order, when he quaintly replied, that he did not know there was an order of that Houſe to prevent his crying *Mew*. He urged the great importance of Nova Scotia to this country, more eſpecially in caſe of a rupture with America, which if miniſters ſhould perſiſt in that line of conduct towards neutral powers, that had diſgraced the national character; if they ſhould iſſue orders for ſeizing American ſhips one month and revoke them the next; he feared was not far remote. He remarked that Halifax commanded Canada, had the beſt harbour for ſhipping in that quarter, and was an excellent place for the recovery of ſick ſeamen and invalids, as had often been experienced. Viewing its uſe every way, it could not be eſtimated too highly. In the laſt war its utility had been determined. But if we continued ſo careleſs as we had of late ſeemed to be of our navy; if we purſued the ſyſtem of raſhly iſſuing Proclamations, and as haſtily retracting them; he feared it was not wholly impoſſible, or even improbable, that ſuch a very melancholy event as a rupture with America might take place; and then, indeed, Halifax would be invaluable. Thoſe who were maſters of the ſea would always be maſters of the Weſt Indies; but we could not be ſo if we had not Halifax as a refuge for our ſhips from the fury of the hurricane ſeaſon. Should a war with America happen, what better protection have we for our Weſt India trade along the coaſt, than the poſſeſſion of Halifax? It was by our naval force alone our dignity was ſupported, and Halifax and Nova Scotia contributed eſſentially to that ſupport. While maſters of the ſea, we were maſters of the product of America, and might in fact be called the maſters of the ſoil. Mr. Sheridan recapitulated the nature of the defence of Halifax in 1754, when it was the great rendezvous of our fleets and armies. He adverted alſo to its ſtate of defence after the peace in 1763, when the peace eſtabliſhment was ſo great, that ſix regiments of foot, five frigates, and a fifty-gun ſhip were ſtationed there. This force was increaſed in the American war. In 1783 there were ſix regiments, a fifty-gun ſhip, and five frigates. He gave a liſt of the ſhips under Commodore Sir Charles Douglas, in 1785, and an account of the land forces: Arguing from theſe premiſes that at that period there was either a ſcandalous extravagance, or in the preſent inſtance an unjuſtifiable neglect.

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He took notice of the directions which were ſent in February 1793, to raiſe Fencibles at Halifax and in Nova Scotia, at the time Admiral Gardner's fleet was taken by ſurpriſe. At that time, only one ſloop of 28 guns, the Huſſar, Captain George, was ſtationed in that quarter; and the land forces conſiſted of no more than two regiments, and one company of artillery, containing about 90 effective men. Here he recapitulated his former arguments; and ſo far from meaning to arraign the loyalty of his Majeſty's ſubjects in that quarter, he was well aſſured they were loyal, and this therefore was an additional aggravation. At Halifax there was between 2 and 3,000,000l. of property, and only 350 wretched men to protect it. Inſtead of 9000 men in arms, 4000 effective men, and the *poſſe comitatus*, the maſs of militia-men with pitch-forks, &c. as had been ſtated in the official accounts of Colonel Wentworth, and boaſted of by the Secretary of State, 350 men was the only force. But Colonel Wentworth, Mr. Sheridan ſaid, was not the proper perſon to apply to for information on this ſubject. However reſpectable in private life, he was only a civilian, and not a regular ſoldier. It was well known that the boaſted maſs of militia was raiſed upon the plan of the French requiſition, the men were raw and inexperienced, without diſcipline and without arms, and totally unfit for ſervice. Why did not miniſters get information on the military ſtate of Halifax from General Ogilvie, the only military officer who commanded there?

With reſpect to the naval defence, an Honourable Admiral (Gardner) would inform the Houſe, and perhaps ſtate what his inſtructions were.—Mr. Sheridan ſaid, he would not here be told, that the Houſe was not qualified to diſcuſs the conduct of admirals, becauſe they wanted profeſſional ſkill—they were admirals, generals, lawyers, for the purpoſe of inquiring into the conduct of every officer, civil, naval, or military, employed in the public ſervice, elſe they might as well ſurrender at once every function for which a Houſe of Commons was inſtituted. In July Admiral Gardner ſailed with a convoy from the Weſt Indies. On the 24th of June the French fleet ſailed for America from St. Domingo. He wiſhed to know whether or not at that period Admiral Gardner thought that all the French ſhips of war were to come to Europe, as he was doing? If he acted on ſuch a ſuppoſition, miniſters were culpable in not ſending him better information. The Hon. Admiral had ſaid, that a ſingle ſhip was ſufficient convoy for a homeward-bound Weſt India fleet. If he thought ſo, why did it not occur to him that the French Admiral might think the ſame, and ſend home the French Weſt India

fleet, if it had been meant to ſend it home, with a ſingle ſhip, he himſelf remaining with the reſt for other operations? What prevented Admiral Gardner from detaching part of his ſhips to Halifax, or going thither himſelf, when he was expected, and cattle actually purchaſed to victual his ſhips? Why did he come away with two 74-gun ſhips, when the French had only four frigates and no privateers? Why did he divide his ſhips to convoy the other fleet, which conſiſted of 120 merchantmen, and apportion ſo large a convoy when a ſmaller one would ſuffice? and what prevented his going to Halifax, or detaching a part of his ſhips to meet the French there? Captain Courtnay, whoſe gallant behaviour in the action between the *Boſton* and the *Ambuſcade* would be recollected by that Houſe, had written about it; and yet, for want of better information, he was obliged to return without the accompliſhment of his deſign. He could then have protected the coaſt, and been ready for ſuch further operations as Sir John Jervis with another fleet had been ſince ſent out to execute. By his ſailing for Europe in July, the whole trade of Halifax was left expoſed to the enemy, and the greater part of it intercepted. The French fleet arrived on the coaſt of America in Auguſt, and ſailed avowedly for Halifax in October. What was then the defence of the place? The batteries were not mounted, the regular troops, including artillery, about 260 men, and Governor Wentworth's corps, which was certainly over-ſtated at 350, a ſet of men, in general, ſo unfit for ſervice, that even in that loyal province, they were called the *Sans Culottes*. The officers indeed were complete, after many remonſtrances to the Secretary of State againſt the nomination of officers who had never ſeen ſervice, and that was as much as could be ſaid for the corps. The Right Honourable Secretary of State had ſaid, there were 4000 effective men in the place at that period. Would he now maintain that there were more than 700 of any deſcription? Or, let him take into the account as many of his militia as he pleaſed, would he ſay that this was a ſufficient defence at a time when the diſpoſition of America was doubtful, and when, inſtead of ſwaying councils that might be fluctuating, by the impoſing appearance of our naval force, a ſingle French frigate was ſweeping the coaſt, and crowding the American ports with our captured ſeamen?

He gave a liſt of Sercy's ſquadron, and noticed the interception and capture of the Halifax traders upon the coaſt. He then quoted ſome extracts in ſupport of his obſervations from the Halifax papers, to ſhew how publicly notorious the danger was they were expoſed to, how deficient in defence, and

and what loſſes were ſuſtained. Of theſe a preciſe account could not be obtained at Lloyd's, becauſe many of the veſſels were inſured at Boſton and New York.

The Right Hon. Secretary of State had ſaid on a former night, that the officers were all taken from half pay. This he was able to contradict. Colonel Wentworth himſelf was not ſo; Major Howe was not ſo; with ſeveral others whoſe names were among the papers which he held, but to which he could not inſtantly refer. This was what he called the jobbing ſpirit of partiality; and ſo much was that ſpirit reprehended in the country, that complaints were made and ſent to England, the conſequence of which had been, that ſome alteration had taken place. Mr. Sheridan ſaid, he was well informed, that, inſtead of the maſs of militia computed at 9000 men in arms, there were not above 7 or 800 men ſcrambled together from all parts, and many from 200 miles up the country. Almoſt all the letters he had received ſince the ſubject was firſt mentioned, began with—"I am aſtoniſhed at Mr. Dundas's aſſertion reſpecting the force at Halifax." He named the different information we received of the danger and loſſes on the coaſt of America, by the Cheſterfield packet, which ſailed in May; the Carteret, in June; the Portland, in July; the Circe, from St. Domingo, and the Halifax, in Auguſt; the September packets, and the Journal which was ſent to the Treaſury and Admiralty, at a time too when Genet and the French Vice-conſul had ſo provoked the Americans, that they would have been happy to have aſſiſted us; though it was alleged, in excuſe for our neglect, that an armed ſhip in their ports would have excited their ſurpriſe and indignation. The proper defence of the coaſt, and of the valuable ſtores and ammunition, which might have been carried off or deſtroyed, was neglected, and they were ſaved only by a mutiny in the French fleet, which obliged the ſhips to abandon their object and ſail for Europe. The panic extended to Quebec and New Brunſwick. At the latter place there were no arms and much property—ten ſhip-loads of maſts only. A veſſel lying there with government ſtores, at a demurrage of 500l. a month, was at length obliged to ſail without convoy for Halifax, where ſhe might be ſtill lying. At Halifax the people were ſo alarmed, and among the reſt the Chief Juſtice himſelf, that they were ſending their property and their families ſeventy and eighty miles up the country.

In corroboration of his aſſertions, he ſaid he would bring proof to the Bar of indiſputable authenticity; officers and engineers; the former, who were there at the time, and the latter acquainted with the minuteſt particulars, having meaſured

ſured over every inch of the place. He would alſo, he ſaid, bring members of the Aſſembly of Halifax as witneſſes; and he challenged miniſters to produce all the letters they had received from merchants on the ſubject; declaring that if they did not all ſubſtantiate what he ſaid, he would ſubmit to the imputation of extreme raſhneſs and imprudence in his aſſertions. He adviſed miniſters, therefore, to beware how they ſhrunk from inquiry; for either the Right Honourable Gentleman or Governor Wentworth had deceived that Houſe.

If on the reſult of the inquiry he ſhould be proved to be wrong in theſe ſtatements, let the Houſe cenſure him—on this condition he was ready to go into it; but let not the Right Hon. Secretary of State bring down official authorities in his hand, read ſuch parts of them as he pleaſed, and call ſuch partial extracts, proofs. Let him read the whole, and he would join iſſue even upon them. He ſhould alſo deſire to ſee a memorial, delivered to the Secretary of State ſince the laſt diſcuſſion, complaining of the want of protection of Halifax. He concluded with moving for copies of the letters and information on the ſtate of Halifax, from Lieutenant Governor Wentworth; of all official accounts of the protection afforded to trade on the coaſt of Nova Scotia; of the letters from General Ogilvie; of the return of the effective force of Lieutenant Governor Wentworth's corps; of the correſpondence on the raiſing the above corps; and an account of the dates of the ſailing of the packets from Halifax, and the information brought by them of the French force on the coaſt of America.

Mr. Secretary Dundas ſaid in reply, that the charge brought againſt miniſters by the Right Honourable Gentleman, if it could be proved, was undoubtedly of a ſerious nature, ſo much ſo, that he wiſhed to meet it with immediate proof to refute it. He owned, therefore, that he was under ſome difficulty in withholding Governor Wentworth's letters after what had been ſaid. The contents, however, were exactly as he had formerly ſtated them; and to his conviction ſtrictly true. His anſwer to the general charge would be the ſame as he had already given—a reference to the ſituation in which we were at the commencement of the war. The ſmall force we then had was to be applied to the ſervices moſt urgent and moſt important; but it could not inſtantly be made ſufficient for all. The two regiments were removed from Halifax with regret; but the ſervice in the Weſt Indies was more preſſing, becauſe Government had information of a plan laid by the French for exciting inſurrections among the ſlaves in our iſlands; and to this danger was added that of the apprehenſion of an attack upon ſome of them. Miniſters had then

no means of ſending troops to the Weſt Indies but from Halifax, where the danger was leſs, becauſe the ſettlers conſiſted chiefly of men who had been in the army, and of officers on half-pay, of whom corps for defence could ſpeedily be formed. It was not his intention to ſay, that removing the troops from Halifax was a matter of choice; he begged to be underſtood to deſcribe the meaſure in its proper light, as a meaſure of neceſſity. When the war commenced, the ſituation of Halifax was not very ſtrong in point of military ſtrength; there were but three regiments on a low peace eſtabliſhment: The Weſt India iſlands were in nearly the ſame ſituation; there were but three regiments there alſo, and thoſe very much reduced. The Weſt India iſlands were conſidered as an object of great importance to this country, and much more likely to fall a prey to the enemy than Halifax. The firſt was at leaſt as formidable as the laſt. When thoſe two enemies were joined together, it was matter of fair conſideration, whether, under theſe circumſtances, it was not the indiſpenſable duty of miniſters to provide againſt both their internal and external dangers in that quarter. There did exiſt, he ſaid, an intention of an invaſion of our Weſt India iſlands in the year 1792; this was pretty generally known; and the apprehenſion of our Government was by no means ill founded, that theſe iſlands were to be the object of attack. The French envied our proſperity there, and were likely to uſe every exertion to weaken and deſtroy us in that part of the globe. Miniſters therefore, Mr. Dundas ſaid, not only had recourſe to Nova Scotia for aſſiſtance, but they alſo ſent troops from Gibraltar, and from Ireland.

Reſpecting Nova Scotia, the embodying a militia occurred to him as the beſt plan of defence; and were ſimilar exigencies to ariſe, ſimilar regulations would, in his mind, be the moſt commendable for the reſiſtance of an enemy. The militia of Nova Scotia were not formed of men entirely ignorant of the military art. They were incorporated with thoſe who had been accuſtomed to actual ſervice, many of the officers and ſoldiers having been often engaged on the moſt critical occaſions. For theſe reaſons (not on account of *too much duty*, as ludicrouſly mentioned by Mr. Sheridan), he had agreed to the removal of the regiments. This plan was founded in policy; for as ſoon as there were any apprehenſions of danger, the improvement of the arſenal, the batteries, and other military preparations in Halifax, afforded the moſt perfect ſecurity againſt the attack of the enemy; and an incredible number of forces were collected in a very ſhort time, to anſwer the temporary emergency. Theſe were incontrovertible

proofs of the vigilance and wiſdom of Government; and ought to ſatisfy the Honourable Gentleman and his friends, that their allegations were ill-founded.

Mr. Dundas ſaid, that in the laſt debate on the ſubject, he had ſaid ſo much in praiſe of Governor Wentworth, he would avoid a repetition of all the encomiums which he had beſtowed; but thus much he might be permitted to affirm, that, in the whole circle of ſociety, there did not appear a more virtuous man, or an officer better calculated, in every reſpect, to diſcharge the duties of a governor than that gentleman. As to the ſarcaſm reſpecting the ſum of 1000l. for his newly-raiſed regiment, the Honourable Mover ought firſt to have aſcertained the truth. Mr. Dundas declared, that "Governor Wentworth received no pay at all for his regiment; but continued to enjoy the ſame allowance as if it had never been formed." From this view of the ſubject it was evident, that the Governor was liable to no imputation whatever; and he thought the beſt mode of abridging the preſent diſcuſſion, would be a ſimple recapitulation of certain facts contained in the Governor's correſpondence, which was ready for the inſpection of the Gentlemen on the oppoſite ſide, if they were actuated by any particular curioſity.

Mr. Dundas obſerved, that he had been accuſed of miſrepreſentation; he begged leave to ſay however, that he was as little intereſted in a miſrepreſentation of facts on the preſent occaſion as any man. The Honourable Gentleman had ſtated, that he ſhould have produced the letters of General Ogilvie, who was a military man, if he wiſhed to obtain any credit for the account he gave of the military ſtate of defence in which Halifax was placed. He read extracts of two letters from General Ogilvie, ſtating, that he had endeavoured to repair the batteries, and hoped to be able to refit a conſiderable ſea force; and an extract of a letter from Captain George, of the Huſſar frigate, ſtating that, in Auguſt, fifty heavy cannon were mounted on the batteries; that there were ſix hundred men to defend the place, including Governor Wentworth's corps, and beſides two regiments of militia; and that there was no reaſon to fear an attack. The troops waiting impatiently for the enemy, were very much diſappointed when they heard that they meditated no attack in that quarter. Theſe circumſtances operated very forcibly, Mr. Dundas ſaid, as a contradiction of the weak ſtate of Halifax, which the Honourable Gentleman had reported was ſo defenceleſs as to be expoſed an eaſy prey to the aſſailants. In corroboration of theſe aſſertions, the moſt convincing proofs have been tranſmitted from the Governor, from the Commo-

dore, and from various other officers, all of whom positively declare, that the place was rendered ſtrong enough to repel any invaders.

Under theſe circumſtances the troops were removed from Halifax, and the event juſtified the meaſure. A force was ſpeedily called out, that gave complete ſecurity to the inhabitants. He ſaw no reaſon for diſtrufting Governor Wentworth's information. No man was more eſteemed in the Colony he governed than he was. Beſides, it was much more uſual for governors and commanders to complain that their force was too ſmall, than to write that it was ſufficient, when it really was not. Nor could he have any reaſon to ſpeak more favourably of the corps raiſed by him than it deſerved, for the reaſon which he had before ſtated, viz. becauſe he received no more as colonel of it, than he did before as Governor.

With ſome degree of triumph, Mr. Sheridan, and others, had demanded the detail or particulars of thoſe warlike preparations, and a ſtatement of the lateſt diſpatches. Mr. Dundas aſſured him, that he had produced no letter which was not of a date "poſterior to the departure of the French from thoſe ſeas." But he could ſtate the nature of the batteries, and the various deſcriptions of guns, by the communication of Major Hodgſon, arrived in London within theſe two days, who affirmed, as "the ſentiments of all military men, that they regretted they had not been attacked by the enemy, convinced that they would have atchieved much glory." In enumerating the various places of defence, he mentioned the number of guns on Mount Pleaſant, General Ogilvie's battery, Maclean's battery, Commiſſioner Duncan's battery of 24 pounders, that of George Iſland of ſix 24 pounders, &c. &c. all of which had mortars of conſiderable magnitude, furniſhed with the neceſſary ſupplies Mr. Dundas obſerved, that in reſpect to Halifax, although the foregoing ſtatement was merely from an imperfect recollection of Major Hodgſon, yet it was evident, that miniſtry were, in their plan of defence, more remarkable for a laudable exceſs than a culpable deficiency.

Mr. Dundas took notice, that Adminiſtration had been arraigned for not ſending out tranſports to carry the troops to the Weſt Indies. To that charge he pleaded guilty; ſince, under theſe circumſtances, and with this method of obtaining tranſports, it would have been the height of folly in him to employ any ſhips for that particular purpoſe, eſpecially when it was conſidered that at that time we were under the immediate neceſſity of fitting out a fleet for the Channel, and ſending another to the Mediterranean; and on the commencement of the war we had only 13,000 ſeamen on our eſtabliſhment

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He was aware of the great difficulty ships experienced in those seas, in the winter, and recollecting the practice of the vessels belonging to Nova Scotia (which were more numerous than Gentlemen imagined), their departures for the West Indies in the month of November, and their returns thither in March or April, it was thought adviseable to take every advantage for the removal of the regiments, which had been happily accomplished. The charges on this head were consequently easily refuted; because, after the declaration of war, it would have been exceedingly dangerous and impolitic to have sent ships into the American seas, to be annoyed or captured by the enemy.

Gentlemen, Mr. Dundas observed, had also condemned Government for not sending sufficient convoys into those seas; but it ought to be recollected, that not a single ship of the description alluded to had fallen into the hands of the enemy, a convoy having been sent with each of the embarkations: The Winchelsea with the first, which also carried part of the troops. With regard to the second embarkation, he read an order of the Admiralty, dated 10th March 1793, directing the Alligator to proceed on this duty, and, in compliance with the order, she immediately proceeded to take charge of the second embarkation. Mr. Dundas explained the time which necessarily must elapse before the troops could be conveyed to the West Indies; and affirmed, that the Winchelsea and these other frigates afforded the most ample protection. From all these truths it was evident, that the present motion, instead of an inquiry into the miscarriages of the war, would prove an inquiry into its successes, not a single capture having been made by the enemy.

After corroborating these facts by a variety of collateral circumstances, Mr. Dundas said, that, notwithstanding the bold observations of the Gentlemen on the opposite side of the House, he was perfectly ready to adhere to all his former assertions. If a reduction of the military establishment of Nova Scotia were an act of criminality, he pleaded guilty; and he confessed his astonishment how any description of men could dwell for a single moment, in a censorious manner, on a measure which tended to public economy. By withdrawing these troops from Halifax, the place was by no means endangered. There remained a powerful train of artillery, a sufficient number of regulars for immediate service, and a spirit of enterprise equal to any atchievement. In every respect Halifax was as well prepared for defence as if the 1800 men alluded to had remained. He knew well that it was impolitic to institute a militia in an infant colony, because such a measure interrupted

ed the deſirable progreſs of agriculture; but in this caſe no danger had reſulted from the expedient, becauſe all acknowledged that the public ſecurity was paramount to every other obligation. Gentlemen were fond of inquiries; ſome inquiries were to be inſtituted concerning the miſconduct of the war, ſome inquiries concerning the misfortunes of the war; but the preſent inquiry turned out to be concerning the ſucceſs of the war; and the Hon. Gentlemen ſeemed determined to bring all his Majeſty's miniſters to a court-martial, to try them for the *ſhip not loſt*. The Hon. Gentleman had ſaid, that the force in Halifax had not been equal to that maintained in former years; it was not poſſible to maintain ſuch a force as ſix regiments on that ſtation, whilſt Gentlemen on the other ſide of the Houſe were actually goading miniſters to reduce the peace eſtabliſhment; but, before the Hon. Gentleman could with fairneſs bring that as a charge againſt miniſters, it was incumbent upon him to point out ſome part of his Majeſty's dominions in which ſuch a force was miſemployed; and he begged leave again to ſay, that the taking the troops from Halifax was not a matter of choice.

Mr. Dundas ſaid, he would paſs over the multiplicity of correſpondence which the Hon. Gentleman boaſted he poſſeſſed. It was, he thought, unneceſſary to dwell long in the ſtyle of a commentator on this part of the ſubject; but, without meaning to outrage the feelings of thoſe on the *other ſide* of the Houſe, he maintained, that there was *ſome reaſon* to *ſuſpect* that certain Gentlemen not only pretended to write to their conſtituents for advice as to their Parliamentary conduct, but even ſtretched a point by giving them a *hint* how they *ought* to inſtruct them as their Repreſentatives; and he alſo remarked, that it might be *ſuſpected* their conſtituents frequently gave inſtructions and information which their Repreſentatives were not very willing at all times to hear! The influence of a Member of that Houſe was lately exerted in a very extraordinary manner. He (Mr. Grey) had adviſed one of his conſtituents and correſpondents, if he wiſhed to oppoſe the preſent war, by a petition or memorial in favour of peace, that it ought rather to be offered to the Parliament than to the King! Theſe were ſome few political manœuvres of the party, who eagerly embraced every opportunity to interrupt the operations of Government for the ſafety of the community.

With regard to the newſpaper from which an extract had been read, he knew neither the proprietor nor editor; therefore could not communicate the Honourable Mover's grateful acknowledgments for the honour with which he had been diſtinguiſhed. As to *Mr. Anonymous*, alias *Mr. Bluet*, the cor-

correſpondence had been productive of ſo much viſible effect, that it might very well be termed a *Corniſh hum*. All the various circumſtances formed a curious occaſion for irreſiſtible laughter. A letter was addreſſed to Mr. Bluet. In the whole town no perſon could be found named Bluet. At laſt, however, a poor boy of that name was diſcovered on board a ſhip, to whom this letter was delivered. When he opened it, and examined its contents, he expreſſed the greateſt ſurpriſe and aſtoniſhment. "What! a letter from a great *Orator* and a *Member of Parliament!* What can *he* mean? Hearing that the Gentleman is occaſionally merry, he intends it, no doubt, as a very *jocular* letter *againſt me!*" The boy conſequently gave it to his Captain, who tranſmitted it to town; and thus the whole buſineſs was brought to light! He condemned the mode in which the Hon. Gentleman queſtioned the Hon. Admiral; as he did not conceive it was right to take advantage of any officer, who chanced to be a Member of that Houſe, and call upon him to diſcloſe thoſe orders which have been given him in confidence by miniſters. If the Hon. Member wiſhed to know what orders were given to the Hon. Admiral, the proper way of obtaining ſuch information would be to move an Addreſs to his Majeſty, praying that thoſe orders ſhould be laid before the Houſe; but he did not wiſh the Hon. Gentleman to make ſuch a motion. With regard to the complaint, that there had been no fleet on the coaſt of America; he muſt ſay, that it was incumbent on the Hon. Member to ſhew, that there was ſome fleet unemployed, in order to ſubſtantiate his charge.

Upon the whole, when it was conſidered, that, on the foundation of a narrow peace eſtabliſhment, we were obliged to fit out a fleet for the Mediterranean, a fleet for the Channel, and a fleet for the Weſt Indies, it would be found difficult to have had one at the time alluded to on the American ſtation, eſpecially when it was conſidered that the French fleet, which was originally deſigned for the protection of their Weſt India trade, was only carried thither by adverſe winds and accident.

After expatiating on a variety of topics in diſpute, Mr. Dundas obſerved, that the preſent motion for papers, preparatory to an inquiry, was totally unneceſſary; and if, the Hon. Gentleman had 10,000 letters, he could not obtain more information than had already been announced. He had no objection to the production of ſome of the papers moved for; but by this acquieſcence he begged it to be underſtood, that he did not pledge himſelf to agree to any further inquiry.

Mr.

Mr. Grey deſired the attention of the Houſe to a ſubject which he admitted to be in a great degree perſonal, but which it was neceſſary for him to notice and to explain. A letter had been mentioned, upon which he ſhould beg leave to make ſome explanation to the Houſe, and he hoped for the indulgence of the Houſe while he made it, as it became neceſſary for him to do ſo after the uſe which the Right Hon. Gentleman who ſpoke laſt, had made of the letter to which he alluded. If he had been aware that the letter would have been adverted to, he would certainly have brought the letter itſelf, but he believed he could ſtate the contents of it pretty accurately from memory, and leave to the Gentlemen who wiſhed ſo much to make uſe of it, all the advantages they could derive from his public explanation, hoping it would prove ſatisfactory, and do away all the private calumnies and whiſpers which had of late been ſhamefully diſſeminated on that and other topics.—A Gentleman of the name of Harriſon came to him, and ſtated, that he had ſuffered materially from the conduct of the magiſtrates of Birmingham laſt ſummer, who, in his opinion, had acted oppreſſively towards him, and therefore he brought his action againſt theſe magiſtrates, in the event of which, however, he was foiled. This man appeared to him to be an honeſt man; he ſaid he was acquainted with a great many manufacturers at Sheffield, who apprehended they might be ruined in their fortune by this war, and wiſhed to know if they could have any redreſs if they brought the matter they complained of before Parliament. Mr. Grey ſaid, it was not his cuſtom to refuſe to a poor man a hearing. It was neither his principle nor his practice to do ſo: He examined into the caſe of this poor man, and his opinion was, that nothing could be done for the relief of him by Parliament; but he told him whatever he could do for him perſonally, he was ready to undertake. Mr. Harriſon ſaid, Mr. Grey could ſupport him in the ſale of razors, which he dealt in. Mr. Grey bought of him two guineas-worth, and he muſt obſerve to the Houſe, they appeared to him to be unexceptionable razors, for "God ſave the King," was marked upon one ſide, and "Long live the King," on the other, of each of them. Mr. Grey then entered into converſation with Mr. Harriſon on the conduct of the people of Sheffield. He attempted to argue with him that the ſyſtem of univerſal repreſentation which they ſought for, would not be productive of the benefits he and they ſeemed to expect from it; but Mr. Grey ſaid, he was unable to contend long upon that ſubject, for he brought a powerful argument againſt him; no leſs than the authority of the Duke of Richmond; and whatever Mr. Grey

Grey could advance againſt the ſyſtem of univerſal repreſentation, this man had perpetually at the end of every ſentence the Duke of Richmond in his mouth. He ſaid, that one man had as good a right as another could have to be repreſented, and that if one man was excluded, ſo might another; and that upon that principle every thing was to be governed by the will and humour of individuals. In ſhort, Mr. Grey ſaid, that all the arguments he could urge were inadequate to the purpoſe of convincing Mr. Harriſon, and he was obliged to give way to the ſentiments of the Duke of Richmond, ſo that at laſt he was compelled to give up the debate. From the queſtion of equal repreſentation in Parliament, Mr. Grey ſaid, they proceeded to the ſubject of the preſent war, which Mr. Harriſon declared had produced great diſtreſs in Sheffield, and in other manufacturing towns, and he told Mr. Grey it was their intention to preſent a petition, ſtating the conſequences they felt from the war. He told Mr. Harriſon he thought that proper, and added, he believed that if petitions were general, they would be productive of very good effect. He ſaid the ſame thing to the Houſe, for he ſtill believed that if petitions were general againſt the war, they would and muſt be productive of a good effect. The man then aſked him, "Whether the petition ſhould be to the King, or to the Houſe of Commons?" He anſwered, Perhaps to both, but that his opinion was, and always had been, that the beſt chance for a petition from any body of the people, was to be expected from the Houſe of Commons, becauſe there was the beſt chance indeed, almoſt the certainty of its being made known to the Public. After that, Mr. Grey franked for him ſome blank covers, among which was one to a man of the name of Shipley: This letter, it ſeems, went not to the perſon it was intended for, but to ſomebody elſe of that name, who tranſmitted it to one of the Members for Nottingham, and from thence, with due care and diligence, it came to the Secretary of State. This letter was to the following effect: "Citizen Shipley, Having ſeen Mr. Grey, I find he thinks that a petition ought to be preſented, and he wiſhes that as many petitions ſhould be preſented as poſſible. He thinks that a petition ſhould not be from the people to the King, but to the Parliament; for he ſays, that if we petition the King, it will be left at the Secretary of State's Office, and no notice will be taken of it." The letter then proceeded to ſtate that 1500 people met at the Globe Tavern in the Strand, and had proved themſelves friends to the people.—The letter was ſigned, "John Harriſon, a Sans Culottes."—Mr. Grey ſaid, he was not in the leaſt afraid of the publication of the letter, nor of the

ſentiments he had expreſſed to this poor man:—It was a good topic for private converſation for ſome perſons in this country. On the contrary, he was happy that the whole was made public. He maintained the principles he had mentioned; they were not new, and they were not his own originally, but they were the principles of men in high ſituations in the confidence of the Sovereign at this time: Men who were proſecuting with unrelenting ſeverity other miſled and poor perſons for adopting their opinions. If they had any thing to ſay againſt him, let them come forward and propoſe to cenſure if they thought fit, and he would meet them. He would not ſhrink from what he had ſaid.

Mr. Smith, one of the Members for Nottingham, ſaid a few words, exculpating himſelf from being the perſon who tranſmitted this letter.

Mr. Secretary Dundas replied with ſome humour. He ſaid he was ſorry the Hon. Gentleman had been ſo very unſucceſsful in arguing againſt the Duke of Richmond; he was ſorry he allowed himſelf to be beat on that ſubject. He ſhould think the Hon. Gentleman might have had a good deal to ſay upon both ſides of that ſubject. As to the obſervation of attending to the opinions of the poor, as well as the rich, he had no inclination to deny the merits of it; but perhaps it might be a leſſon to the Hon. Gentleman with whom he had converſed ſo freely, for the report of the converſation was not very accurately detailed by this Sans Culottes:—He was afraid this man's loyalty was confined to his razors.

Mr. Grey ſaid, he was not aware of any great leſſon that was given to him by the effect of this converſation. If a man was to come to him the next day, and open a ſimilar converſation, he ſhould, under the ſame circumſtances, conduct himſelf in the ſame manner; and as to the report of this Sans Culottes, he did not perceive that he had materially miſrepreſented any thing.

Major Maitland combated the arguments of Mr. Dundas, and maintained that the ordering the troops from Halifax was a matter of choice, and not of neceſſity. Neceſſity might, he ſaid, be admitted as a plea in defenſive operations; but it could not be through neceſſity, or in our own defence, that we ſent troops to St. Pierre, Miquelon, and Martinique. In fact, the diſaſter in the laſt place fell principally upon the regiments drawn from the garriſon of Halifax. The conduct of Admiral Gardner appeared to him to require particular explanation, as the neglect of Halifax reflected blame either upon him, or the miniſters who gave him inſtructions. The Hon. Admiral (Gardner), he ſaid, protected the homeward-bound fleet, not as his duty, but out of choice; and when

when he muſt have known that the French had a conſiderable force on the coaſt of America, inſtead of coming home, he ſhould immediately have proceeded to Halifax and Nova Scotia, and not taken a ſecond-hand authority for the ſafety of our poſſeſſions there.

He denied that the opinion of Governor Wentworth, in a military point of view, could be received as any kind of authority. That Gentleman, it was ſaid, was not to receive any pay in conſequence of being Colonel of the fencible regiment, but as it was acknowledged that he had the appointment of his own officers, it was clear that he poſſeſſed that which was the moſt valuable part of ſuch an appointment. This regiment, however, was not calculated for any purpoſe of defence, and ſo totally deſtitute of diſcipline, as to be unfit for any duty. He was ready to prove at the bar of the Houſe, upon teſtimony full as reſpectable as that of Major Hodgſon, that the commander in chief refuſed to employ them in any line of ſervice, and that no part of the inſtitution was approved of by him.

The militia upon which Mr. Dundas reſted ſo much for defence, was unclothed, undiſciplined, and unfurniſhed with any other arms than what each individual could provide for himſelf. It was a miſnomer to call it by that name, it was a mere *poſſe comitatus*. Such was the panic, indeed, that every perſon, from the age of ſixteen to ſixty, was called out, but they received no pay nor clothing. The regular troops were ſo few, that the Governor and Commander in Chief were not able to furniſh themſelves with the uſual complement of centinels to ſtand at their doors. As to the 52 guns ſaid to be mounted on different batteries, they formed no ſort of defence againſt an invading enemy, as the 500 men, of which Governor Wentworth's regiment was compoſed, would be inſufficient to man them with the neceſſary relief, ſuppoſing them to have no other employment whatever: And he was perſuaded, if they had landed them, there was not a ſufficient force at the time to have reſiſted them; they could have deſtroyed the arſenal, and done every miſchief that they pleaſed.

Theſe and other ſtrong points he pledged himſelf to prove, if an inquiry was to be had into all the circumſtances of this ſubject.

Admiral Gardner ſaid, the manner in which Gentlemen alluded to him in the courſe of the debate, ſeemed intended to provoke explanations which it might be improper to give. He juſtified himſelf as to his conduct in the Weſt Indies, and ſaid he was ready to afford every protection in his power to any

part of his Majeſty's dominions that required aſſiſtance. A young Member of Parliament, and unaccuſtomed to public ſpeaking, he was nevertheleſs ready to anſwer directly any queſtion which his duty required of him. Much older as a member of that profeſſion to which he had the honour to belong; he was too well acquainted with his duty as a ſeaman, entruſted with command, to be drawn into explanations which propriety did not warrant. If he had had reaſon to think that Halifax was in danger, he ſhould have thought it his duty to repair to its aſſiſtance. For the four months, however, that he remained at Barbadoes, from April to Auguſt, though he had maintained a conſtant correſpondence with that colony, he never heard a word of apprehenſion for its ſafety.

Mr. Sheridan replied to all the obſervations of Mr. Dundas, and maintained that nothing could ſatisfy the Public but a fair inquiry into the whole of the ſubject. He did not deny that Mr. Dundas had the information he mentioned; but the queſtion was, whether the information was correct, becauſe there was other information of equal, and poſſibly of higher probability, that contradicted the moſt material parts of that of the Right Hon. Secretary. He particularly wiſhed to know, what had been carefully concealed, namely, whether, after the Winchelſea reached Admiral Gardner, that officer had acted according to his own diſcretion, or whether he had been tied up from aſſiſting Halifax by the orders and inſtructions of Government. The urgent neceſſity of his preſence at home had, indeed, been ſtated as the cauſe of his neglect at Halifax; but it did not appear that the neceſſity was at all preſſing, ſince he came home at perfect eaſe and leiſure. Nor could the ſervice in the Mediterranean be alleged in vindication of his return and abandonment of Halifax, ſince the Engliſh fleet ſailed for the Mediterranean in May, and Admiral Gardner did not arrive in Europe till October. If the Admiral obeyed his orders, he muſt approve his conduct as far as it perſonally related to him; but if he had a diſcretionary power, he muſt ſtrongly condemn it. The trade to the Mediterranean was certainly unprotected; nor was he ready to give that degree of implicit faith to Admirals and Generals which they might expect.

It had been aſked, who could attack Halifax in the winter? And from this it would be inferred, that the Admiral, in leaving it to its fate, had left it in no danger; but he muſt inform the Houſe, that, during the laſt forty-five years, there had not been more than three ſevere froſts; and it might be fairly calculated that the harbour was not frozen more than once in ten years. It was, therefore, a miſtake to ſuppoſe that the ſeverity of the winter would baffle the efforts of the French. It had been

been aſſerted, that the Houſe was pretty generally agreed as to the information reſpecting Halifax, but he thought there was ſome difference in it; for he had heard nothing that night reſpecting the nine thouſand ſtrong athletic young fellows, about whom the Right Honourable Secretary had on a former occaſion boaſted ſo loudly. However, he ſuppoſed we ſhould have it all in the papers: Notwithſtanding the opinions of others, he could not but conceive there was a wide difference in their information; and, therefore, he thought the moſt proper way of coming at the truth would be to ſift the matter regularly by going into a ſolemn inquiry.

That Governor Wentworth had received no emoluments on account of his new corps, had been aſſerted with triumph, and he certainly was not able to meet it with a direct contradiction; but although Governor Wentworth might not receive a direct income, yet the patronage of the regiment, by which he might provide for relations and dependents, was not to be reckoned as nothing. With equal exultation had it been ſtated, that 800 of the inhabitants of Halifax had thrown themſelves in the way, and ſhewn a preference of being employed as military, rather than of being exempted; but the Right Honourable Secretary ſeemed not to be aware, that in that boaſt he had diſcloſed a fact highly alarming to this country, and dangerous to the fidelity of our colonies; he had diſcloſed, that in the hour of danger our colonies muſt depend upon themſelves for protection; and if once they were confirmed in that belief, and were alſo trained to the uſe of arms, their affection for this country muſt proportionably diminiſh, and even their allegiance become equivocal. He wiſhed the Right Honourable Secretary had aſſigned any other reaſon for abandoning Halifax; that he had even ſaid it was by the neglect or miſtake of Government, or by accidental neceſſity, which ſhould be prevented in future; for any reaſon he ſhould have been more inclined to admit, than one which ſeemed ſo miſchievous in principle, and ſo dangerous to the ſafety of all our colonial poſſeſſions. He denied that the regular troops in Halifax had in July exceeded 350; and repeated his aſſertions reſpecting their feebleneſs. With regard to the calling out of the militia, he denied that Government could claim merit on that account, ſince it was an act of the Aſſembly; and ſo far from reſembling our militia, it was ſimply the *poſſe comitatus*, a number of raw undiſciplined men, who could not well be kept together, or who, if forced to remain always on the defenſive, might diſcover that they were under no particular obligation to this country, and might therefore entertain ideas of ſeparating.

Commodore

Commodore George's good fortune in eſcaping the French, Mr. Sheridan obſerved, had been related as meritorious to the Commanders in Halifax; but although they were fortunate, he could not ſay they were wiſe. When Commodore George ſailed for the Weſt Indies, there were two French line-of-battle ſhips and ſeveral frigates in the Cheſapeak or at New York, and it was indeed ſingularly fortunate that he was not captured by them; for if he had correct information, he had a right to conclude that there was much more probability of his falling into the enemies hands than of eſcaping.

As a refutation of the aſſertions of the vigilance of Government in taking meaſures of defence at Halifax, Mr. Sheridan ſaid, that though that colony had been deprived of her ſtrength early in the ſummer, yet no effective meaſures had been taken till September: Even on the 5th of Auguſt no attempt had been made, not a militia man called out, nor a gun mounted on the batteries; nor was it probable that any meaſures of precaution would have been even taken when they were, had it not been for the alarm created by the arrival of the French in the Cheſapeak. If therefore the Houſe would conſent to the production of the papers, he was ready to follow the production up with an inquiry; he was ready to confront Major Hodgſon's remarks with a witneſs at the bar, whoſe talents, as an engineer, ſtood as high as thoſe of any other Gentleman in that line. He would not accuſe the Right Honourable Secretary, or even Governor Wentworth, of a concerted deſign to impoſe upon the Public by the information which had been produced in that Houſe; but he was firmly perſuaded, that if no impoſition was intended, a great miſtake muſt have ariſen ſomewhere. He had been told, and circumſtances led him to believe he had been told truly, the diſpatches of Governor Wentworth, which had been produced as authentic ſtatements of the ſituation of Halifax, were written with a deſign that they might fall into the hands of the French, for at that time almoſt every veſſel ſent to ſea had been captured; and certainly it would have been indiſcreet to have run any hazard of making the enemy acquainted with the really wretched ſtate of the place; for ſo true was this, and ſo great was the alarm, that what had been deſcribed as ariſing from exceſſive loyalty, was nothing but the conſequence of anxiety for their own ſafety; an anxiety which induced the better ſort of people to take ſpades in their hands, and to work on the fortifications like common labourers, in order to inſpirit and animate the populace by their activity and their example. They ſaid, We are willing to erect works, and defend the place, if you will give

give us a director. But all this vigour in the inhabitants was merely produced by the criminal neglect of Government, which had lowered the military eſtabliſhment in the time of ſuch imminent danger even below the peace eſtabliſhment.

Mr. Sheridan obſerved, that the Right Honourable Secretary of State had advanced a very extraordinary aſſertion, when he ſaid that Halifax was as well defended as if the two regiments had remained. What were the ſubſtitutes? a fencible regiment, which never did duty, conſiſting of 350 men, and a raw militia, if it could be called by that name, chiefly compoſed of men dragged from 200 miles up the country; raw and undiſciplined; in whoſe hands a gun was not put till the French fleet had returned to Old France. Mr. Dundas had obſerved, that it was politic to teach a young colony to defend itſelf; he believed, if a colony found that the mother-country acted upon a principle in this reſpect, they would learn to defend themſelves, but in a manner very different from what the Hon. Gentleman meant. Still, however, if it was maintained that Government had done its duty, he would aſk what occaſion was there for all the alarm? If there was a ſufficient quantity of Government forces to defend the place, why call out the militia? Theſe two ſtatements of miniſters contradicted each other, and clearly expoſed the fallacy of their aſſertions. How could they boaſt of the ſufficiency of the regular military for the defence of the place, and yet boaſt that the exertions of the inhabitants were ſo animated and extraordinary? What occaſion was there for thoſe exertions, if the military really was ſo ſtrong? But a proof ſtill more convincing was, that many perſons removed their effects. In London the inſurance of property in Halifax was 12 and 15 per cent. and at laſt it could not be inſured at all, ſo deſperate was the ſituation of that country conſidered. Mr. Sheridan took a review of the other aſſertions which had been advanced reſpecting the military ſtate of Halifax, and ſaid he would produce a Brigadier General as an evidence in ſupport of his ſtatements. He concluded by declaring, that he would not be ſatisfied with ſuch garbled extracts of diſpatches as Adminiſtration might probably be inclined to give; that he muſt have a full and fair detail; that if different intelligence from his had been received, he begged it might be brought forward. He challenged every man in the country to produce ſuch letters as related to the ſubject; and declared, that if the Houſe would enter into an ample inquiry, and not content themſelves with partial ſtatements, it would require all the pomp of language, all the lofty declamation, all the verboſity and ambo-dexterity of the Right Hon. Gentleman,

man, the Chancellor of the Exchequer, to ſave Adminiſtration from the ſevere cenſure, not only of Parliament, but of the Country.

Admiral Gardner aroſe to explain what he knew of the French fleet, which had ſo frequently been alluded to in the courſe of the debate. At the time that he was preparing to convoy the Leeward Iſland fleet, he heard that the two 74-gun French ſhips, and five frigates, were to convoy the Weſt India fleet to France. He had no reaſon to ſuppoſe, and the event juſtified his opinion, that they would ſail to America; and he fully expected to fall in with them in his paſſage from the Weſt Indies.

Mr. Sheridan ſaid, he was ſatisfied with the obſervations of the Honourable Admiral, as far as they went to the point of intelligence of the deſtination of the French fleet; but he condemned the whole conduct of the Engliſh fleet, for want of prudence upon that expedition. If the Honourable Admiral had no diſcretion, but had poſitive orders for what he did, no blame could be imputed to him. If he was allowed to judge for himſelf, he had acted indiſcreetly: He had no right to catechiſe the Honourable Admiral, but he was bound as a Member of that Houſe to make theſe obſervations, which the face of the fact and its circumſtances ſuggeſted.

Mr. Speaker put the queſtion on Mr. Sheridan's firſt motion, which was carried.

Mr. Sheridan moved, "That there be laid before the Houſe, Copies of all Letters relative to the protection of the trade of Halifax during the preſent war."

Mr. Secretary Dundas ſaid, he would not agree to that motion, inaſmuch as it was the motion of a former day only repeated. It was therefore withdrawn.

Mr. Sheridan next moved, "That there be laid before the Houſe, Copies of all Letters, and Extracts of Letters from Gen. Ogilvie, relative to the ſtate of Nova Scotia and New Brunſwick, ſince the commencement of the war."—Ordered.

"That there be laid before the Houſe, Copies of the returns of all the effective forces at Halifax during the year 1793."—Ordered.

"That there be laid before the Houſe, Copies of the Correſpondence which had taken place between the King's miniſters and Gen. Ogilvie, relative to Governor Wentworth's corps."—Ordered.

"That there be laid before the Houſe, Extracts from the Journals of packets from Halifax ſince the commencement of the war, communicated by the Poſt Maſter General to the Secretary of State."—Ordered.

Mr. Sheridan, after a few ſtrong prefatory words, moved, "That there be laid before the Houſe, a Copy of a Memorial preſented that day by the merchants of the city of London, who traded to Nova Scotia, with regard to the ſtate of defence at Halifax."

Mr. Dundas ſaid, he never heard language from a Member of that Houſe, of which he conceived the Member ought to be more aſhamed. It was certainly true that ſuch a memorial had been preſented to him that day, about three o'clock in the afternoon, giving him certain information with regard to the fleets of the enemy, and what meaſures the merchants concerned in the trade of Nova Scotia conceived might be proper to be adopted. But he ſubmitted it to the candour of the Houſe, if any man, filling a public ſituation, could poſſibly, conſiſtently with his duty, produce ſuch a memorial to the Houſe. A number of perſons had thought proper to lay before a Miniſter of State, what might contain matter of ſerious importance, and all at once that was called for to be made public. Suppoſe, for inſtance, it contained ſome information relative to the ſailing of a fleet from Breſt? He did not ſay this paper did any ſuch thing; but ſuppoſing it did, was that matter fit for public diſcuſſion in that Houſe? Did the Honourable Gentleman mean to ſay that ſuch a paper ſhould be laid on the table of the Houſe of Commons upon barely aſking for it? Let the Honourable Gentleman aſk his own candour, what that miniſter would deſerve who ſhould comply with ſuch a requeſt, when, by complying with it, he might counteract all the good intended to be produced by the thing itſelf? He owned he ſhould be aſhamed to agree to ſuch a propoſition; for if he had agreed, he ſhould think himſelf unworthy of the confidence of Parliament. Beſides, the only regular mode of Parliamentary proceeding was, to move an Addreſs to his Majeſty, for the production of ſuch a paper; and it was obvious, that his Majeſty could not have given to his ſervants any commands upon that ſubject, ſince the paper itſelf had not been before him. If the Hon. Gentleman was aware of this, he certainly ought not to have come forward with ſuch a motion, of which a man of the Hon. Gentleman's good ſenſe ought to be ſomewhat aſhamed. Mr. Dundas ſaid, he made no ſcruple to enter his proteſt againſt the delivery of the memorial, becauſe, were he to deliver it, he ſhould hold himſelf unworthy of the confidence that had been repoſed in him.

Mr. Sheridan contended, that the very circumſtance of the merchants aſking how they were to be defended in future, was pretty ſtrong evidence that they were diſſatisfied with the manner in which they had hitherto been defended, and that miniſters

ſters were either unwilling or unable to lay down any plan for defending them; elſe, why ſhould a memorial be preſented, aſking how they are to be defended in future? He ſtated this to ſhew that miniſters, in the opinion of theſe merchants, had been either regardleſs of their defence, or too ignorant to know in what manner they ought to have been defended. A memorial was a public paper which, unleſs a reaſon was aſſigned for withholding it, ought to be laid before Parliament.

Mr. Fox ſaid, that before Mr. Dundas had made uſe of the language with which he had thought proper to begin his ſpeech, he ſhould have conſidered whether he had any argument to bear him out on that ground. He profeſſed that he, for one, was perfectly unacquainted with the contents of the memorial, and he believed Mr. Sheridan to ſtand in the ſame circumſtances. He wondered how the Honourable Secretary arrived at the inference he drew from the motion before the Houſe. How was the Mover to know that the memorial he aſked for, contained ſuch delicate matter as he had hinted at? Was there any thing on the face of the paper itſelf, as he at firſt mentioned the contents of it, to the effect he at laſt mentioned? There was one thing, however, he was glad to find from this diſcuſſion, namely, that all we had heard of the impoſſibility of obtaining information of the intentions of the French, was without foundation; that was only an argument made uſe of for the ſhift of the moment; for they had been told of the poſſibility of our gaining intelligence of the deſtination of the Breſt fleet: A circumſtance they never ſhould have known, but for the candour and ingenuity of the Secretary of State. He ſhould have thought we could not have gained any intelligence whatever from France, becauſe they had on former occaſions heard from miniſters, that it was impoſſible; he was very glad that had only been the pretence of the moment. But there was ſomething unfair in this mode of proceeding, on the part of the miniſter; it was at war with all the principles of juſtice. There was a rule in law, Mr. Fox obſerved, founded upon excellent grounds: And he contended, that it was unfair and unparliamentary to read part of any paper in that Houſe, except the whole was before them, in order that they might ſee how far the context bore out the particular paſſage. He took it for granted, that when miniſters refuſed any information that was called for, by which they may be inculpated, that refuſal was *primâ facie* an acknowledgment of their guilt. He would ſay, therefore, that, upon the face of the proceeding, additional reaſon was afforded to prove the propriety of the motion.

If

If this memorial did actually contain what the Secretary of State alluded to, the Houſe undoubtedly would not perſiſt in the inquiry; but what in God's name was there to be aſhamed of? His Honourable Friend knew nothing of the contents of the paper, as opened in the ſecond ſpeech of the Right Hon. Gentleman, any more than he did himſelf: All that was conveyed by the firſt opening of it was, that the memorialiſts were diſſatisfied with the protection they had already received. But this was of a piece with the whole ſyſtem of Adminiſtration; they gave part of any thing they pleaſed, and refuſed juſt as much as they pleaſed, of any document; and theſe were the equal terms of which they ſo much boaſted, as thoſe on which they met their opponents. If that ſyſtem was perſiſted in, there would be an end of all inquiry in that Houſe; ſince all the means, by which inquiry could be effectual, were denied; but the reſult would be different from what miniſters expected; for he took it to be a principle, in itſelf clear and undeniable, that when a charge was made, and all inquiry into its merits refuſed, he who refuſes the inquiry muſt, *pro tanto*, be held to admit the fact. Let them go into the inquiry, and then let the Public judge whether the accuſation be true or falſe; and let the diſgrace fall where it ought to fall, either on the juſtly accuſed, or on the falſe accuſer: If miniſters were allowed to refuſe inquiry, becauſe they deny the fact roundly, and ſay there is danger in the examination, there was an end at once of all examination, and every thing was a mere mockery. But this was the ſyſtem lately adopted by miniſters, and it was upon this they built the whole of their conduct. They availed themſelves, from day to day, of the alarm that had gone forth, and which they had themſelves propagated, to bring forward new principles of royal prerogative unknown to our conſtitution. Hence all the new-fangled maxims, concerning the right of landing foreign troops without the conſent of Parliament: Hence all the doctrine of ſubmiſſive obedience to authority, and contempt for all popular rights and privileges. It was thus they ſapped all the principles of the conſtitution, and proceeded ſo rapidly to its ruin. They took advantage of the alarm of the hour, for the purpoſe of laying down precedents, that, if ſubmitted to, would ſoon extinguiſh all freedom in this country, in which, unfortunately for the liberties of Engliſhmen, they ſucceeded but too well; and if they were not ſtrenuouſly oppoſed, it would ſoon be impoſſible for any man to deliver his ſentiments; but until they had put an end to the freedom of ſpeech in that Houſe, he ſhould perſiſt in expoſing their aims. He would add, that by their conduct in this, and all motions for inquiry, they in-

directly admitted that they knew all the facts alleged againſt them to be true. While he had the honour of a ſeat in that Houſe, Mr. Fox declared, he never would ceaſe to condemn a doctrine, that cut up by the roots the moſt valuable part of our conſtitution.

The Chancellor of the Exchequer took notice, that Mr. Fox had ſpoken with great warmth upon the ſingle circumſtance of the memorial, concerning which he began by admitting that it ought not to have been produced. This was the ſhort ſtate of the caſe. When his Right Hon. Friend (Mr. Dundas) had ſaid that the Hon. Gentleman (Mr. Sheridan) ought to have been aſhamed to have moved for the memorial, he argued upon the poſſibility that that Hon. Gentleman might have been acquainted with the contents of that paper. He for one was ready, with the utmoſt coolneſs and deliberation, to pronounce that Mr. Dundas was correct in aſſerting that Mr. Sheridan's motion and obſervations were ſuch as he ought to be aſhamed of. This was not a time for him to debate upon thoſe prerogative points to which the laſt ſpeaker had alluded; but he could not paſs over the obſervation of Mr. Sheridan, that his Majeſty's miniſters were the moſt improper perſons to ſuggeſt to that Houſe the line of their proceedings. This was unqueſtionably a very novel doctrine, the reſult of the Right Hon. Gentleman's own reflections, or ariſing from his partiality to a ſyſtem that had for ſome time and at preſent prevailed in a neighbouring country. In France it was decreed that no perſon employed in the executive government could hold any ſeat, or deliver any opinion in the deliberative and legiſlative departments of the ſtate. He remembered there was a law paſſed at one time in England, nearly to the ſame effect; but that law was repealed before the arrival of the period when it was to be carried into execution. From what his Right Hon. Friend had ſtated, it was apparent that that memorial related to the diſtribution of forces for the protection of our trade in future. If the Hon. Gentleman oppoſite him was not acquainted with its contents, or was not ſatisfied of its relation to either paſt or future operations, he was of opinion that the Hon. Gentleman was a little too haſty in bringing forward his motion; becauſe, as his Right Hon. Friend had only received it that day, and had ſtated that he had not found time to peruſe it, it was impoſſible, therefore, that he could have laid it before his Majeſty; a circumſtance which, if it had not been complied with, it became impoſſible for his Hon. Friend to lay it before the Houſe. Was the Hon. Gentleman oppoſite to him aware of theſe circumſtances, and was he not aſhamed in conſequence to have brought forward this motion? The Chancellor of the Exchequer ſaid, he was perfectly

perfectly convinced, that every other Member in that Houſe, being in poſſeſſion of the information he had ſtated, would have been aſhamed to make ſuch a motion. A Right Hon. Gentleman (Mr. Fox) ſeemed to throw out, that miniſters were deſirous of preſcribing the rule of parliamentary conduct and public duty upon certain occaſions. This was not at all to the point. The queſtion was, whether there was ſuch ſuſpicion ariſing out of all the circumſtances as to outweigh all the authorities and documents that had been advanced? The Right Hon. Gentleman was perfectly at liberty to ſay, that this ſyſtem was coupled with prerogative; but it would not deter him from ſtating his opinion. With reſpect to what the Right Hon. Gentleman (Mr. Fox) had ſtated, relative to *new principles*, *viz.* that no miniſters were ſuffered to argue in a certain place for the executive power, he could only ſay, that if that Right Hon. Gentleman felt himſelf diſpoſed to make a motion to that effect, he truſted that he would extend it, not only to the preſent miniſters, but to all *ci-devant* miniſters.

Mr. Sheridan obſerved, that the Houſe ſeemed to him to be in a very thriving condition, when he looked around him. He believed the Chancellor of the Exchequer had a ſtrong attachment to two things in it—one for his place, and another for ſpeaking. He confeſſed that he was very ſuſceptible of the emotion of ſhame, whenever he did any thing which could expoſe him to fair reprehenſion; though he always endeavoured as much as poſſible not to deſerve it. He took to himſelf no ſhame for this character of inſenſibility, which ſhould ſet the ingenuous bluſh upon his countenance in contraſt with the impenetrable feelings of the Right Honourable Gentleman oppoſite to him (Mr. Dundas), who reminded him of an expreſſion of a perſon in a Play, who ſays, "*There ſits a good man, who is aſhamed of nothing.*"

Whether the French were right in excluding miniſters from a ſeat in the Convention, was not his buſineſs to argue; nor did he think, when the ſuperior advantages of the Britiſh conſtitution were acknowledged, that they ſhould be aſcribed ſolely to that particular circumſtance. What he meant was, that when Parliament was employed in diſcuſſing its own privileges and rights, it was not to be ſchooled and tutored by his Majeſty's miniſters; and he would not ſcruple to repeat, that their votes and diviſions would be as free and independent, if they had not ſo liberal a diſtribution of *placemen* and *penſioners* amongſt them.

He profeſſed himſelf to be perfectly unacquainted with the contents of the memorial; but the Right Hon. Secretary of State had furniſhed him with the information, otherwiſe he

ſhould

ſhould have known nothing of its reference to the preparations at Breſt, or any other of the French harbours. If the Right Hon. Gentleman ſuppoſed him to be informed of the contents, he remarked, that it did not augur well for the perſons who had preſented the memorial, that miniſters ſhould accuſe them of aſſerting a falſehood; for they certainly made ſuch an accuſation, when they acknowledged that the merchants had ſtated that the contents of the memorial were unknown to any others than thoſe who ſigned it; and yet miniſters ſaid, they ſuppoſed the whole to be very well known to him. From the ſtatement given, he was ready to admit, that the memorial was ſuch as would be improper for public diſcloſure.

The motion was withdrawn.

Mr. Sheridan propoſed to know whether any oppoſition was intended to the inquiry, which he meant to inſtitute upon the papers that were voted? He profeſſed himſelf ready to move that inquiry immediately, or to defer it to a more convenient day.

The Chancellor of the Exchequer reminded him, that the papers were not yet upon the table, and that probably Gentlemen would wiſh to peruſe them before they decided whether there was any ground for inveſtigation.

The other Orders of the Day were deferred.—Adjourned to Monday.

HOUSE OF COMMONS.

MONDAY, *February* 24.

Two Petitions were preſented againſt the Eau-Brink Canal Bill, which were ordered to be read the ſecond time on Thurſday the 27th, on a diviſion of 31 to 16.

TRIAL OF MR. HASTINGS.

Mr. Anſtruther moved, "That a Meſſage be ſent to the Lords, requeſting them to make out a Warrant for examining Wm. Larkins, Eſq. as a Witneſs on the Trial of Warren Haſtings, Eſq." The motion was agreed to, and Mr. Anſtruther ordered to carry the Meſſage to the Lords.

HANOVERIAN TREATY.

Mr. Whitbread, jun. moved, "That an humble Addreſs be preſented to his Majeſty, that he will be graciouſly pleaſed to give directions that a copy of the Tariff by which the pay of the ſubſidized Hanoverian troops is regulated, be laid before the Houſe;" which was agreed to.

Mr. Whitbread then gave notice, that on Thurſday the 6th of March he ſhould make a motion relative to the Treaties on the Table.

The Chancellor of the Exchequer wiſhed to be informed, on what particular point of the treaties the motion was to be founded?

Mr. Whitbread ſaid, the information aſked for could be given with more preciſion at another time.

MR. ATKINSON.

Mr. M. A. Taylor gave notice, that on Monday the 3d of March, he would bring forward a Petition from Mr. Chriſtopher Atkinſon, praying that a reſolution of the Houſe, by which that Gentleman was expelled in conſequence of his having been convicted of perjury, might be expunged.

The Chancellor of the Exchequer aſked, on what grounds he meant to reſt the prayer of the petition?

Mr. Taylor replied, that he meant to move that the whole ſhould be referred to the conſideration of a Committee.

MR. PALMER'S SENTENCE.

Mr. Sheridan roſe to preſent a petition from the Reverend Fyſche Palmer, an unfortunate Gentleman who ſome time ſince was Fellow of Queen's College, Cambridge, and was at preſent on board a tranſport for Botany Bay, in conſequence of a ſentence of tranſportation paſſed upon him for ſedition by the High Court of Juſticiary in Scotland. The petition ſtated, that the ſentence was *unjuſt*, *illegal*, *oppreſſive*, and *unconſtitutional*; and prayed ſuch relief as the Houſe in its wiſdom ſhould ſee fit to afford. Mr. Sheridan added, that as far as he had been able to examine the ſentence, his opinion, with regard to the illegality of it, was preciſely ſimilar to that of the unfortunate ſufferer; and he hoped that no objection would be made to his preſenting the petition previous to the motion which his Hon. Friend was that day to bring forward. The petition was dated ſome weeks prior to the time of preſenting it, which he conceived, on due conſideration of the circumſtances that had ariſen to occaſion the delay, could be no objection to its being received. It had been put into his hands the preceding day, and he then took the firſt opportunity of moving for leave to bring it up.

The Chancellor of the Exchequer declared, that he could by no means agree to the bringing forward of this petition, according to the propoſal of the Honourable Gentleman. This was a petition againſt the ſentence of a court of juſtice, ſolemnly and deliberately pronounced. The petition appeared to him to be of a moſt extraordinary nature, and one which he ſhould hold it his duty, in the firſt inſtance, to oppoſe; for, there never had been in any caſe, as far as his recollection ſerved, an inſtance of an application to that Houſe, to interpoſe

poſe its authority between the judgment and the execution of a ſentence pronounced by a competent court; the proper and regular mode of application for mercy would be to the Crown.

If it could be ſhewn that the Judges had acted either illegally or unjuſtly in the proceedings, the Houſe of Commons might interfere by an Addreſs to remove them, or by an impeachment. But in this caſe a man, tried, convicted, and ſentenced by a competent tribunal, when the ſentence is about to be carried into execution, applies to the Houſe of Commons to travel out of their province, and interfere with the duties of the executive power: After ſentence was paſſed, all that could be given him was mercy, which was veſted ſolely in the Crown by the conſtitution of *England*. He conſidered the motion equally unprecedented and improper.

Mr. Sheridan ſaid, the petition came perfectly within the rules of the Houſe: It contained no application for mercy; it complained of a ſentence contrary to law; and ſurely it would not be contended, that the Houſe of Commons was not the proper place to reſort to for redreſs againſt ſuch a ſentence. That a petition for mercy muſt be addreſſed to the Crown he was not to learn; but, independent of that, the Houſe, on account of the illegality of the proceedings, was not only competent, but had alſo a right, in compliance with their duty, to interfere, and by an Act of Parliament reverſe the verdict.

Mr. Fox ſaid, he hoped the Right Hon. Gentleman would not perſiſt in his objection to receiving the petition. The Right Hon. Gentleman had obſerved, that no appeal lay to that Houſe to prevent the execution of a ſentence, though complained of as illegal, unjuſt, and unconſtitutional. It might be poſſible that he had himſelf totally miſtaken the Britiſh conſtitution; but if he had not done ſo, Mr. Fox ſaid, he would maintain that it was a principle, not generally but univerſally admitted, that a petition might be preſented to the King in Parliament, in other words, to the Legiſlature, againſt the deciſion of any court of juſtice, from which there was no appeal by law to any court of judicature. In purſuance of this principle it was, that, on the opening of every ſeſſion, the Houſe appointed a Committee upon Courts of Juſtice, which was always conſidered to be ſitting and exerciſing a perpetual and vigilant ſuperintendency over all the inferior Courts, that the people might know that their repreſentatives were ready to receive complaints for which redreſs could be obtained in no other place. In the caſe ſet forth in the petition, the Houſe well knew that there was no appeal to any Judicial Court; they could not therefore refuſe to take the petition into conſidera-

tion

tion without deſerting their duty. And it was certainly high time for the benefits of the Engliſh laws to be extended to all parts of the United Kingdoms, when it had been determined that there lay no appeal from the Court of Juſticiary in Scotland to the Houſe of Lords in England. If they were alſo exempt from the appellant juriſdiction of the Houſe of Commons, what remedy was there for the utmoſt poſſible abuſe of the principles of juſtice in their proceedings?

Suppoſing that, after ſentence was pronounced, the Houſe of Commons had been applied to by petition, ſtating unanſwerable allegations of fact, to interfere and reverſe it in the caſe of Lord Ruſſel or Algernon Sydney, he fancied it would have ſtartled even the men in power of thoſe times if they had been anſwered as they were, "We acknowledge that the judgments againſt them are illegal and unjuſt; but it would be unprecedented in us to interfere while the ſentence is in proceſs of execution. Let them be beheaded, and then we will reverſe the ſentence completely fulfilled."

The Chancellor of the Exchequer had ſaid, that an application to them in their legiſlative capacity was irregular and improper; in ſuch a declaration the Right Honourable Gentleman had been miſtaken: In the preſent caſe it was to be obſerved, that it had been decided, that no appeal lay to any ſuperior court of law; conſequently no alternative remained for a man complaining of the illegality of a ſentence, but a petition for its reverſal to the legiſlature. A petition to his Majeſty for mercy was of a nature totally different; it generally ſat out with admitting the legality of a ſentence, but prayed an abatement on the ground of mercy. The only reſource, as far as he could ſee in the preſent inſtance, was the one that had been taken. And whatever might be the opinion of the Right Honourable Gentleman with reſpect to the particular merits of the caſe, he truſted that he would not attempt to give ſo deep a wound to the conſtitution as refuſing to hear it would certainly be.

The Chancellor of the Exchequer ſaid, he believed there was not a ſingle inſtance of ſuch an application to that Houſe. He admitted that it was the duty of Parliament to inquire into and rectify the abuſes of the Courts of Juſtice. But in what manner? not as a court of appeal, but as a court poſſeſſing the power of inflicting cenſure and puniſhment on thoſe who abuſed their judicial authority. To receive ſuch a petition as that offered, would form a precedent for making Parliament a regular court of appeal, and confound the legiſlative and judicial functions, the diſtinct ſeparation of which had been juſtly held to be one of the greateſt advantages of the Britiſh

conſtitution. The proper method of proceeding, as it appeared to him, and indeed the only regular mode, would be, by moving to impeach the judges by whom the ſentence had been pronounced. At the ſame time he confeſſed, he did not at preſent wiſh to deliver any decided opinion upon the ſubject, not having formed one. His only anxiety was, that ſubſtantial juſtice ſhould be done; and as this was a point of very great importance, of which no previous notice had been given, and as he wiſhed to examine more into the precedents on the ſubject, and not to hazard a raſh opinion, he truſted a motion he ſhould propoſe would meet with no oppoſition, *viz.* "That the debate be adjourned till Thurſday or Monday; but as Thurſday had ſome buſineſs allotted to it, and was rather too early, till Monday the 3d of March." This he expected would meet with general approbation, as no doubt Gentlemen on both ſides would wiſh to conſider more deliberately a point of ſuch momentous importance.

Mr. Fox ſaid, he would not oppoſe the queſtion of adjournment; becauſe the point itſelf undoubtedly called for mature conſideration. He was not prepared to ſtate what precedents there might be found, which would ſupport an application to that Houſe for its interference for the ſuſpenſion of execution of judgment after ſentence paſſed; but undoubtedly there were precedents for reverſal of judgment after execution; and a man muſt be of a very curious turn and compoſition of mind, who would ſupport the one and reſiſt the other. He did not imagine that his Hon. Friend would object to the delay, as no doubt he would wiſh to have before him all the knowledge which could be collected on the ſubject. He had no objection himſelf to the adjournment propoſed, but he thought the deciſion of the Houſe on this point, ſo material to the diſcuſſion of a motion which an Honourable and Learned Friend of his (Mr. Adam) intended to make, that he would recommend poſtponing that motion, till the Houſe had determined reſpecting the other.

The Chancellor of the Exchequer ſaid, the Honourable and Learned Gentleman would judge for himſelf of the time moſt proper for him to bring forward his motion: But as the interval before Thurſday might be too ſhort a time for maturely conſidering the queſtion of the petition, he ſhould wiſh the debate upon it to be adjourned till Monday next.

Mr. Stanley roſe, to ſtate his reaſons for agreeing to adjourn the debate; but appearing to be rather proceeding to enter into the general merits of Mr. Palmer's caſe, he was called to order by the Speaker.

Mr. Sheridan ſaid, after the good effects that had ariſen,

or rather were likely to ariſe in the preſent inſtance from re-conſideration, in conſequence of what had been ſaid by his Right Honourable Friend (Mr. Fox), he could have no manner of objection to the adjournment. It behoved the Houſe, however, to conſider if the motion of which notice had been given for that day, ſhould be poſtponed, as he thought it ought to be, what would be the ſtate of it on a future day. If his Honourable Friend (Mr. Adam) were to go merely into the record, that he might do at any time with the record before him. But the record had been refuſed. His Honourable Friend would therefore be under the neceſſity of going into the whole caſe at large. He therefore wiſhed that the Houſe would alſo re-conſider their refuſal of the record, without which, when the motion came before them, they would be arguing in the dark.

Mr. Francis wiſhed to call the attention of the Houſe to a point, which, though of importance, had been overlooked by Gentlemen on both ſides, *viz.* the actual ſituation of the unfortunate petitioner. He hoped his Majeſty's miniſters would not put in execution the ſentence till the petition had been diſcuſſed; and by that means deprive the petitioner of all poſſibility of benefit or advantage from the reſult of the diſcuſſion.

Mr. M. A. Taylor ſaid, that, after the great doubts that had been entertained by perſons competent to give an opinion on the ſubject, both with reſpect to the relevancy of the libel, and the legality of the ſentence, the execution of that ſentence ought to be ſuſpended till the Houſe had come to ſome deciſion on the various relative points in queſtion. Antecedent to that, it would, in his mind, be indecent in miniſters to ſuffer a ſingle ſtep to be taken towards the execution of the ſentence. Mr. Taylor ſaid that it was not a few whiſpers, as had been inſinuated, but the ſerious doubts of many men of great repute in the law, that had been held, of the legality of this ſentence, which ought to weigh in the minds of the Houſe. He could not therefore agree to the adjournment, without firſt receiving ſome aſſurance, that the execution of the ſentence ſhould be poſtponed.

Mr. Dundas begged the Houſe not to adjourn with an impreſſion on their minds that Government intended the ſmalleſt delay in the execution of the ſentence. As far as concerned him, the ſentence had been carried into execution ſome time, for the warrant for the tranſportation of Mr. Palmer had paſſed the Council Board, and he, with other convicts, was already received on board the tranſports appointed to carry them to their place of deſtination. If the execution of it were to be de-

layed in conſequence of ſuch a petition as that offered to the Houſe, applications of the ſame ſort might be expected from every other perſon in a ſimilar ſituation with Mr. Palmer. The opinion of the Hon. Gentleman (Mr. Taylor) upon the legality of their ſentences, had been given as a matter of authority; they were not, however, to be directed by preſumed authority, but by reaſon; and therefore, he ſhould conſider it as no other than the Honourable Gentleman's own opinion, againſt which, with great deference to him, he was ready to oppoſe his own; for he had not yet heard a ſingle argument which had induced him to alter an iota of thoſe ſentiments which he had declared in that Houſe to be the ſentiments that he entertained on the ſubject, when it had been firſt alluded to, and which he was ready to ſupport, whenever Gentlemen ſhould be diſpoſed to bring forward the diſcuſſion; viz. that the ſentence was legal; and that the Court of Juſticiary, in paſſing that ſentence, had exerciſed a ſound diſcretion. He condemned the conduct of Gentlemen on the oppoſite ſide as unneceſſarily tardy and procraſtinating, ſince they had neglected the buſineſs they had undertaken for ſo long a time, and now called upon him to ſtop the execution of the ſentence. If they had been ſo eager, and in any expectation of obtaining the interference of the Houſe to have the ſentence reſpited, they might have offered the petition at any former time ſince the meeting of Parliament.

Mr. M. A. Taylor ſaid, that where a petition for mercy was preſented to the King, it was always cuſtomary to ſuſpend the execution of the ſentence till the petition had been decided upon. Surely the ſame rule ought to be obſerved where a petition was preſented to Parliament complaining of a ſentence as illegal.

Major Maitland reminded the Houſe, that the petition was dated the 3d of February. It was to be obſerved, therefore, that the motion of which his Hon. Friend (Mr. Adam) had given notice, and which was debated a day or two after, if it had ſucceeded, would have rendered the petition unneceſſary, becauſe notice was given of an intention to introduce into the Bill for granting an Appeal to the Houſe of Lords from the Scotch Criminal Courts, a clauſe with a retroſpective view to the caſes of Mr. Palmer and Mr. Muir. That motion had been thrown out in a manner in which he believed no motion of equal importance had ever before been rejected. It had, however, induced the petitioner to keep back his petition, which had been given the preceding day only into the hands of his Hon. Friend, who offered it to the Houſe. The reaſon of the delay, he believed, was the advice of Mr. Palmer's friends,

friends, grounded on the expectation of some relief, which might have been expected by a Bill to be proposed by his Hon. Friend (Mr. Adam).

Mr. Adam said, it afforded him some satisfaction, that the Chancellor of the Exchequer had not persisted in the hasty rejection of the petition which he had first suggested. Let that Right. Hon. Gentleman but recollect his own conduct on the continuation of the impeachment against Mr. Hastings, and he would see that he could not have made such a figure in the debates on that subject, if the principle had not occurred to him, that no case ought to be finally decided in the Court in which it originated. Let him recollect that this case of Mr. Palmer was a case in which there was no appeal to any Court of Law, and that Parliament was the only place to which the petitioner could look for redress. When he gave notice of the motion which the House had unfortunately rejected, he had stated in express terms, that it was his intention to include the cases of Mr. Muir and Mr. Palmer. The petition was of so much importance, that, with all the inconvenience to which he must expose himself, he would defer making the motion he intended to have made that day until the House had decided upon it. He wished, however, to obtain that decision on Thursday the 27th, because the transport in which Mr. Palmer was embarked waited only for a convoy. If the transport should sail before the decision of the House upon the petition, there would be no occasion to search for precedents; for it would not then be an application for the interposition of the House between sentence and execution, but for the House to reverse a sentence after execution.

Mr. W. Smith said, that to deliberate on Mr. Palmer's petition, and in the mean time to suffer his sentence to be executed, would be neither more nor less than a mockery of justice.

Mr. Fox declared that he felt himself particularly interested in the turn which the debate had latterly taken. He had not paid any visit to Mr. Palmer, whom he had never seen; but had conversed upon the subject of his case with Gentlemen who had at different times had interviews with him. Though he maintained the power and the duty of Parliament to superintend and control the juridical proceedings of other Courts, yet he thought it prudent to resort to that control in cases of necessity only. As his Hon. and Learned Friend (Mr. Adam) was about to bring in a Bill for allowing an Appeal from the Court of Justiciary to the House of Lords, in which the Committee would be instructed to give it a retrospective operation

operation on all the ſentences of the year 1793, it might be beſt to wait for the chance of an Appeal to the regular Supreme Court of Juſtice. Of the ſubſequent delay he could ſay nothing. A petition, little more than four weeks after the meeting of Parliament, was preſented to the Houſe. Miniſters deſired time to conſider of that petition; and it was at leaſt incumbent upon them to ſuſpend the execution of the ſentence, as long as they themſelves required to conſider of a petition complaining of the illegality of the ſentence. A Secretary of State, if a petition had been given him to preſent to his Majeſty in behalf of a condemned criminal, and he had doubted of the propriety of preſenting it, certainly would not heſitate in delaying the execution till his doubts were ſatisfied. He had no reaſon to expect at the time that his Friend's motion would be ſo readily diſpoſed of, and he was not ſure that the advice he gave might not have influenced in ſome degree the conduct of Mr. Palmer and his friends in drawing up the petition; that as little time as poſſible might be loſt, he moved that the debate be adjourned to Thurſday the 27th.

He ſuggeſted at the ſame time, that the motion which Mr. Adam gave notice of for this day, might be deferred till the petition was diſpoſed of.

The Chancellor of the Exchequer ſaid, he had no objection to deciding on the petition on Thurſday, if that was more agreeable to the general ſenſe of the Houſe; but he could ſee no reaſon for ſuſpending the execution of the ſentence.

The Solicitor General thought the queſtion of infinite importance, and ſuch as required great conſideration; and he feared that it could not receive the attention that was due to it by Thurſday; he therefore wiſhed a later day ſhould be appointed for the diſcuſſion.

Mr. Adam declared he ſpoke without the leaſt knowledge of the unfortunate perſons on board the tranſport. He ſpoke independently of every conſideration, except that of his duty as a Member of that Houſe, and in that view it did ſeem to him that this was a queſtion on which the Houſe ought not to heſitate a moment, either to agree to delay the ſailing of the veſſel, or to take the ſubject into conſideration as early as poſſible. Mr. Adam ſaid he acquieſced in the opinion of his Right Hon. Friend (Mr. Fox), with regard to his intended motion, which, though given notice of without any knowledge of the preſent petition, or any connexion therewith, yet was a queſtion which would conſiderably influence his motion.

Sir George Cornwall ſaid, he was ſorry to feel it his duty to ſtand forward on this occaſion: He was ſorry to have occaſion

to

to interfere at all with the prerogative of the King, as he was the fountain of mercy. He ſhould not in the leaſt endeavour to direct the Houſe on the ſubject; but he muſt ſay it appeared to him, that the delay which was now aſked in favour of this unfortunate man, was nothing more than what was due to the diſcuſſion of the ſubject. The mere circumſtance of the convict being on board a tranſport ready to ſail, appeared to him to be no reaſon for refuſing the proper time for the diſcuſſion of the caſe; he might be taken from on board the veſſel, and remanded to priſon. It was a caſe that required the attention of the Houſe, and out of which there could not ariſe any miſchief; what could be done, in his opinion ought to be done, and the delay of the ſailing of the veſſel appeared to him to be nothing in compariſon to the importance of the ſubject now before the Houſe; at any rate Mr. Palmer might be taken on ſhore and remanded to priſon, while his caſe remained under diſcuſſion in that Houſe.

Mr. Secretary Dundas ſaid, he ſhould be for the earlieſt day that could be appointed for the diſcuſſion. With regard to the other propoſition, that of delaying the ſailing of the veſſel, or remanding the convict to priſon, he felt himſelf under the neceſſity of reſiſting it, although ſo much recommended by the Hon. Baronet. He conceived himſelf bound in duty to do ſo; and he ſhould not forgive himſelf, nor would his conſcience forgive him, if he neglected it, and gave way to the feelings and emotions of the moment; by doing ſo, he ſhould be inſtrumental in poſtponing the puniſhment of one man, and raiſe the expectation and increaſe the diſappointment of many others.

Mr. Whitbread, ſenior, called the attention of the Houſe to the peculiar caſe of the petitioner, which, he ſaid, was an object well worthy their ſerious conſideration: Mr. Palmer was a man deſcended from one of the moſt ancient and honourable families in the county of Bedford; and the unfortunate ſituation in which he was placed, had been the cauſe of inexpreſſible grief to his numerous friends; even ſuppoſing the ſentence pronounced upon him legal and juſt, a queſtion upon which he felt himſelf by no means competent to decide, he was nevertheleſs an unfit object of proſecution and puniſhment, being conſidered, all his life, a man ſomewhat deranged in his intellects.

He believed from his heart the petitioner had no evil intention againſt the government of this country; and he was firmly perſuaded that any twelve gentlemen of Bedfordſhire, who knew him, and were ſummoned on a jury of lunacy, would bring him in inſane.

He

He thought it his duty, as a Member of Parliament, and alſo in compliance with the applications of the friends of Mr. Palmer, to give the Houſe this information, which fell within his own particular knowledge.

Mr. W. Smith ſaid he ſhould vote for the earlieſt day, becauſe, under all the circumſtances, that appeared to him to be the beſt. But he could not help making this obſervation—If the principle maintained by the Secretary of State was carried to its full extent, the ſentence of the Court of Juſticiary muſt be executed, even if it ſhould be death; and the only remedy to be allowed to the perſon complaining, was, an inquiry into the juſtice of his ſentence after his execution. He wiſhed to know whether there was in nature any thing more abſurd than ſuch a propoſition.

The queſtion was then put upon the amendment, and the debate upon Mr. Fyſche Palmer's petition was adjourned to Thurſday, without a diviſion.

MOTION FOR AN ADDRESS TO THE KING.

Mr. Whitbread (having ſhortly intimated in the preceding debate, that he ſhould bring forward a motion as ſoon as the queſtion relative to Mr. Palmer's petition was decided) ſaid, that he thought the Chancellor of the Exchequer, who had declared, when the petition juſt diſpoſed of for a few days was preſented, that the time was too ſhort, as firſt propoſed, for its conſideration, if an appeal was made to his humanity, could hardly think of putting the ſentence againſt the petitioner in execution, before the debate on the petition was determined. He therefore hoped that his Majeſty would ſtop the tranſport from ſailing until that event ſhould be over. The Secretary of State had ſaid, his conſcience could not ſuffer him to neglect his duty: Mr. Whitbread ſaid, his own conſcience would not permit him to neglect his: Nor would his feelings permit him to let the night paſs, without making the motion with which he intended to conclude: The ſubſtance of it was, That an humble Addreſs be preſented to his Majeſty, intreating his Majeſty to give orders that the tranſport ſhould not ſail until the petition offered on the part of Mr. Palmer ſhould be heard. Mr. Whitbread ſaid, he was ſorry he could not connect the caſe of Mr. Muir with that of Mr. Palmer; but that was impoſſible as the matter then ſtood; for the caſe of Mr. Muir was not at that moment before the Houſe, and therefore he could not regularly allude to him. He concluded with moving, "That an humble Addreſs be preſented to his Majeſty, praying that he will be graciouſly pleaſed to give directions, that the Rev. Mr. Palmer be not ſent in the tranſport

in

in which he now is on board until after Thurſday the 27th inſtant."

The Maſter of the Rolls thought there was no one parliamentary ground ſtated on which that Houſe could, with propriety, adopt ſuch a meaſure; that there was no parliamentary ground laid down for granting it; there was nothing on the face of things that diſtinguiſhed the caſe of Mr. Palmer from the caſe of any other convict; that in the ſituation in which the Houſe then ſtood, they knew nothing of Mr. Palmer or his caſe: At leaſt they had nothing before them as a foundation for moving ſuch an addreſs. In order to warrant ſuch an application to the Houſe, the Hon. Gentleman who made it, ſhould have been able to have ſtated ſome reaſons for its adoption; in the preſent caſe, there was not one, nor any thing like a caſe made out; and he was perſuaded it would be the only inſtance of the kind in the annals of Parliament. The precedent would be a dangerous one, and he wiſhed to know if Gentlemen were prepared to ſay, that on the petition of any convict, the Houſe ſhould addreſs his Majeſty to ſuſpend the execution of his ſentence until they ſhould have time to conſider the merits of ſuch petition! Beſides, he had not underſtood that any proper application had been made to the Crown, whoſe undoubted prerogative it was to exerciſe mercy, when it found fit objects. He complained, that the arguments which he had made uſe of upon the motion of Mr. Adam, againſt the introduction of an appeal from the Court of Juſticiary in Scotland, had been groſsly perverted.

Mr. Fox obſerved, that the Learned Gentleman had by no means ſtated the real ſituation in which the queſtion ſtood; there was one difference between the caſe of Mr. Palmer, and that of any other convict, with regard to the conſideration to be given to it by that Houſe, which he would ſtate, becauſe the Learned Gentleman had entirely overlooked it. The other convicts to whom the Learned Gentleman alluded, had not made their caſes known to the Houſe, or the ſituation in which they were placed; Mr. Palmer by his petition had done ſo, and therefore ſtood in a different predicament. No queſtion was undecided with regard to them, whether their caſe ſhould or ſhould not be received. With regard to Mr. Palmer, ſuch a queſtion did ſtand undecided, and the further conſideration of it was only adjourned; the queſtion then to be conſidered conſequently was, whether the Houſe, having adjourned the conſideration of the petition, would or would not give the object of it an opportunity of benefiting by that diſcuſſion, if the reſult of it ſhould turn out favourable to him. He had no difficulty in ſaying, that if there was nothing more than that

queſtion before the Houſe, and independent of any merits whatever, he ſhould give his vote for the preſent motion; and he could not help obſerving, it was rather curious that, when this ſubject was brought forward, it ſhould be oppoſed on general grounds, independent of the circumſtances of the caſe in favour of the application. Gentlemen had been rather haſty in forgetting that the petition, which made part of the caſe, had been already opened, and that the Houſe had a few minutes ago agreed to adjourn the conſideration of that petition. Mr. Fox ſaid, he would not anticipate any thing ſo unfavourable to the Houſe, as to imagine that they would reject the motion before them. He could not ſuppoſe that they would act ſo much to their diſgrace, as to refuſe to follow up their proceedings with conſiſtency: When they themſelves, and the miniſter with them, had required time to conſider on the nature of a petition, they would not ſurely, with their eyes open, refuſe to the perſon who preſented it, the interval of four days, to benefit by the determination, or to know the iſſue of it.

Mr. Ryder ſaid, he had been too long familiariſed to the practice of the Right Hon. Gentleman to ſhower down his imputations of diſgrace, if motions did not paſs according to his ſentiments, to be much overawed or much affected by ſuch declarations. As to the particular queſtion before them, he confeſſed he could not ſee any reaſonable grounds whatever for the motion. He begged leave to ſay, they never yet had entertained any conſideration of the ſubject in queſtion: They had ſaid, indeed, that the queſtion on the receiving the petition was doubtful, but the Houſe had not ſaid that the matter now before them ſhould be conſidered at all. Another obſervation he could not help making, and that was upon the manner in which this queſtion had been introduced. An Hon. Member had ſaid his conſcience would not permit him to let this night paſs without making the motion; he could not help congratulating him on ſubmitting now ſo readily to the dictates of his conſcience; but he thought that conſcience had been a little tardy in its progreſs, ſince this ſubject had been mentioned almoſt at the beginning of the ſeſſion, and, after various attempts to inveigle Parliament to come to a declaration on the matter, Gentlemen now came forward with a motion for an Addreſs to the Crown, juſt at the time the ſentence was under execution. The petition was ſigned three weeks ago; why had it not been preſented before? What reaſon was there for this, unleſs it was done with a view of gaining a little time? This was ſomething like the conduct of certain creditors of a particular perſon, who arreſted him after

after an order went from the Secretary of State, under the authority of the Alien Bill, to quit the kingdom: This made it neceſſary for the miniſters of the Crown to introduce a clauſe into that Bill, to put an end to ſuch practice. There was no inſtance, he believed, of receiving a petition, the prayer of which was to ſuſpend the execution of a ſentence. Any perſon convicted at the Old Bailey might juſt as well make a ſimilar application. A man ſo circumſtanced would have only to get a petition preſented, and then a motion made ſimilar to the preſent, in order to obtain a delay of the execution of his ſentence. The Houſe had never entertained any doubt of the legality of the ſentence on Mr. Palmer.

Mr. Adam ſaid, the extraordinary interpoſition, if there was any, came from Gentlemen on the other ſide. They would not pretend to ſay that they were ready to decide whether or not the Petition ought to be received, much leſs whether or not, if received, the prayer of it ought to be granted. What then was the drift of their arguments? that the Petitioner, whether well or ill founded in his application to the Houſe, ſhould derive no benefit from it. The Right Hon. Gentleman ſhould have recollected, that he had taken the earlieſt opportunity, after the meeting of Parliament in January, to give notice of his former motion. His reſpect for Courts of Juſtice made him cautious of bringing any charge againſt their proceedings without mature conſideration. He had then abſtained from all animadverſion on the legality of the ſentence, and he ſhould do ſo ſtill, unleſs goaded by ſuch obſervations as he had juſt heard. He gave notice of the bill which he meant to propoſe, and at the ſame time that he ſhould move in the Committee to introduce a clauſe with a retroſpect to caſes that had occurred in 1793. What the Right Hon. Gentleman meant by inveigling miniſters, he was at a loſs to imagine. In what reſpect had they been called upon, by any thing he had ſaid, either in giving the notice, or making the motion, to give any opinion on Mr. Palmer's caſe? If they choſe to volunteer opinions, and to confound queſtions perfectly diſtinct, it was their own fault. As to what the Right Hon. Gentleman had ſaid of arreſting friends, in order to prevent their being ſent out of the country, he knew not to whom it applied. The irony was too fine for his comprehenſion.

The Chancellor of the Exchequer ſaid, he felt himſelf obliged to riſe to make a few obſervations on the ſpeech of the Learned Gentleman. The interpoſition complained of was none of his. He had moved to poſtpone the conſideration of the motion for receiving the Petition, and in that the Houſe had concurred. If he were called upon to decide immediately,

he ſhould ſay, that the Petition ought to be rejected; in fact he had only ſuggeſted the delay on the ground of caution. If the Petition were at that moment on the table, and time taken to conſider of it, there would be no ground for the preſent motion. It contained not a ſingle argument for poſtponing the execution of the ſentence, which could only be done on the ſuppoſition that the ſentence was illegal, that its ſeverity was extreme, or that on one or other of theſe points grave and ſerious doubts were entertained. He called the attention of the Houſe to the hiſtory of the tranſactions; reminding Gentlemen, that miniſters had concurred to reject the motion on which the preſent was to have been grafted, and in every ſtage of the buſineſs they had conducted themſelves ſo as not to have given their opinion that the ſentence was at all illegal, nor had they appeared to entertain a ſuſpicion that it was. Notwithſtanding all this, notwithſtanding that it was obvious doubts were entertained of the propriety of admitting the Petition, and the Houſe had adjourned the conſideration in conſequence of thoſe doubts, yet they were now called on with confidence to take a ſtep which could only be juſtified by their belief that the ſentence was illegal; and after the Petition had been preſented and received. He reminded them, that the delay could ſcarcely be attributed to the intention of waiting the deciſion of the Houſe on a former motion, ſince it bore date the day before that motion was brought. This then would not be the reaſon of poſtponing it: There was ſomething, he obſerved, extremely ſuſpicious in this neglect: He could hardly conceive it to be accidental, he was unwilling to ſuppoſe it premeditated. He admitted that Mr. Adam had given his notice candidly and fairly. It would alſo be admitted that his Right Hon. Friend (Mr. Dundas) then ſaid, as miniſters ſaid at that moment, they entertained no doubt of the conviction being legal, the ſentence apportioned with ſound and meritorious diſcretion, and that no delay would be ſuffered in the execution. They were ready to argue the whole caſe then, and they were alſo ready to argue it immediately. Gentlemen on the other ſide knew this; and, when the Houſe was in expectation of another motion, they produced a Petition, which had ſlept ſince the 3d of February. The effect of agreeing to the motion would be to give to the Public an impreſſion that the Houſe doubted the legality of the ſentence, at a time when, for any thing they knew, much of the internal peace of the country might depend on no ſuch impreſſion going forth.

Mr. Adam ſaid, that, after the rejection of his motion for leave to bring in a bill, he gave notice of a motion for documents

ments which he ſpecified. The Right Hon. Gentleman took time to conſider of that motion, and then refuſed to agree to it. Subſequent to that refuſal, he gave notice of the motion he intended to have made that day: Theſe circumſtances were ſufficient grounds for not preſenting the Petition ſooner.

Mr. Sheridan obſerved, that the Gentlemen on the oppoſite ſide had appeared to confound two things extremely diſtinct. He adverted to Mr. Ryder's inſinuation, *viz.* "That the Gentlemen who propoſed the preſent queſtion, had frequently endeavoured to inveigle it into the Houſe:" And ſaid, miniſters complained of attempts to inveigle them, as if it were the practice of their opponents to take advantage of the frankneſs and ſimplicity with which they conducted themſelves on all occaſions.—Nothing could be more open or candid than the general deportment of miniſters in that Houſe, and conſequently nothing more oppoſite to openneſs and candour than that of other perſons! yet, notwithſtanding the candour and ſimplicity of the Hon. Gentleman, and notwithſtanding the appeal that had publicly been made that evening, he knew nothing ſo ſuſpicious as a miniſter's conſcience.

Whatever the conſcience of the Right Hon. Gentleman might be, he was happy to boaſt of a conſcience very different. Perhaps the Right Hon. Gentleman only aſſumed a careleſs air of tranquillity, or perhaps the time was yet to come when his conſcience would excite a very different ſenſation. Fearleſs of diſguiſing his own ſentiments, he would avow that, ſo contrarily had he been affected, that, in company with a Noble Lord [Lord Lauderdale], and another Gentleman [Mr. Whitbread], a Member of that Honourable Houſe, he had long ago paid a viſit to the Gentlemen [Mr. Palmer and Mr. Muir] ſo ſeverely condemned by the Court of Juſticiary, on purpoſe to gain ſuch intelligence of their condition as might operate towards the attainment of a reverſal of their ſentence. They afterwards waited on the Right Hon. Secretary of the Home Department, and repreſented the illegality of the ſentence, the oppreſſion it inflicted, and their determination to bring forward a parliamentary inquiry upon the ſubject. They then requeſted ſome ſuſpenſion of the ſeverities they were condemned to ſuffer until they were able to determine upon the competency of the Court of Juſticiary, whether an appeal did not, or could not, lie to a Supreme Court of Judicature, or whether ſome revocation could not be eſtabliſhed. The Right Hon. Secretary heard them with attention, and deſired them to ſtate their objections in writing, and to each of their requeſts moſt readily acceded, for which he begged leave to return him his ſincere thanks; he would therefore do the Right Hon. Secretary of State the juſtice to ſay, that

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in one inſtance he had been open and candid; and had the Right Hon. Secretary followed the practice he obſerved at the commencement, he ſhould not now have cauſe for the leaſt diſapprobation. They had no deſire to circumvent the Right Hon. Secretary, and committed their objections and their arguments upon them to paper; that paper was tranſmitted to the Scots Judges for their opinion. Here, however, the Right Hon. Secretary's candour ended; for when he told them that their objections were inadmiſſible, he did not communicate the report of the judges on which he founded his negative. Mr. Palmer had ſince preſented a petition to his Majeſty. Was that petition referred to the judges, or had the report of the judges upon it been ſignified to Mr. Palmer? Thoſe who had intereſted themſelves in Mr. Palmer's caſe—a caſe of oppreſſion, as they conſidered it—had omitted no mode of obtaining relief. Many circumſtances induced them to delay applying to Parliament till they had tried every other method. The family of Mr. Palmer thought they had connexions and intereſt, which a petition to Parliament might render ineffectual. Sorry and aſhamed he was to ſay, that a petition to Parliament, it was feared, might be conſidered as ſomething ſeditious. It was at leaſt thought to be ungracious, and therefore inexpedient, to petition Parliament, while there was a chance or a hope of mercy. The Gentlemen oppoſite had objected to the time of the preſent application, and obſerved, that the Petition ſhould not have come after other buſineſs. This was the very reaſon for their commendation. He maintained that neither he himſelf, or any of the Gentlemen who were engaged in preſenting the Petition, had ſitten with folded arms, and in a ſtate of careleſs inactivity, until the final iſſue, as had been repreſented; but had uniformly and conſiſtently, with prudence and with perſeverance, adopted and purſued every meaſure that ſeemed practicable and juſt. Petitions had been adviſed. An attempt had been made in the Lords upon the Law of Appeal. Notice had been given alſo in that Houſe upon a motion which ought to have been the firſt in point of precedence, and he was ſorry it was not ſo, he meant the production of the Record. To produce the Record would be the beſt and faireſt ground of proceeding, ſince upon that alone could the main argument be eſtabliſhed. Though he had given notice of making ſome inquiry at that time, he could not make up his mind on the ſubject, and therefore had poſtponed it, ſince his Learned Friend had then named the day for bringing the whole motion forward.

Mr. Sheridan adverted to what Mr. Whitbread, the elder, had inſinuated of the family of Mr. Palmer. It was very confidently reported, that although ſentence was paſſed, yet

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there was good reaſon for believing that a ſentence ſo abhorrent to the ſpirit of our law, a ſentence which no man in the Houſe would dare to vindicate if applied to a ſimilar offence in England, would not be carried into execution. That lending a book (which was the caſe of Mr. Muir) ſhould ſubject a man to tranſportation like a felon for fourteen years, would be enough to raiſe the people of this country in arms. If miniſters attempted to make the law of Scotland the law of England (but they dared not), they would find it a ſufficient crime to forfeit their heads. Upon theſe grounds it was, that the buſineſs had been delayed until it was actually proved that every hope of lenity was unfounded. Let Gentlemen recollect that the meaſure, which had now been judged as criminal, was inſtituted formerly, and promoted by thoſe very perſons who now ſupported the judgment of the Court of Juſticiary in Scotland. Inſtead, therefore, of puniſhing a few individuals with ſuch unremitting rigour as they had done, they ought to be thankful that the whole country had not riſen up in arms to enforce them to their firſt ſolemn and repeated promiſe, or avenge themſelves for the cauſe which they had ſo perfidiouſly betrayed. Suppoſe any man, conjointly with others oſtenſible from their rank and ſituation, had encouraged opinions which were once at leaſt allowed to be conſtitutional and juſt, and afterwards, upon that authority, publiſhed thoſe opinions in Scotland; whereby he ſhould be tried, deemed guilty, and convicted, would not ſuch a proceeding be ſufficient ground to forfeit the head of any miniſter whatever?

"They charge us," ſaid Mr. Sheridan, "with making a party queſtion of this, when we ought to have applied to the fountain of mercy. I know what mercy was ſhewn to ſimilar objects, before we made any queſtion on the ſubject. I ſpeak with ſome information; I have ſeen thoſe unfortunate victims. I have viſited them in thoſe loathſome hulks: Gentlemen by birth, profeſſion, and education, fit company for any Member in that Houſe, compelled to aſſociate with common felons, and the baſeſt of mankind; themſelves not indeed in irons, but who had recently been releaſed from their fetters, ſeparated from each other, and even denied the ſmall conſolation and ſlender comfort of aſſociating together, on the idle and abſurd pretence that ſome danger might enſue from the conſpiracy of two poor and oppreſſed individuals, that they might poſſibly create an inſurrection." Whatever miniſters might urge of their conſcience, Mr. Sheridan ſaid, it was a ſhame and a diſgrace to them, which, though they might endeavour to avoid or to conceal, would for ever foul their reputation, to ſuffer

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Gentlemen, who had minds as great and as accompliſhed, and ſouls not leſs alive to ſenſibility than their own, to be thus miſerably baniſhed from their country and their friends, and doomed to the abject ſlavery of wretches, who had diſhonoured the character of men.

The ſneer of a Right Hon. Gentleman [Mr. Ryder] with regard to ſome Gentleman having arreſted a perſon ordered to quit the country, he believed had reference to the caſe of Count Zenobio, who, as he underſtood, had been arreſted by Mr. Horne Tooke. [*Mr. Thompſon contradicted him as to this fact.*] He could not ſay poſitively by whom he had been arreſted, but Count Zenobio was certainly the perſon alluded to; and he could not conceive any reaſon for ordering him to quit the kingdom, as he believed him to be a *harmleſs little man.* With regard to the Count's having been arreſted, Mr. Sheridan declared, that he did not know at what time a man ſhould be arreſted for a debt, unleſs when it was publicly known that he was about to quit the country.

Mr. Ryder objected to Mr. Sheridan's expreſſions, as he had not in his ſpeech made mention of names.

Mr. Sheridan was not conſcious that he had ſaid any thing improper; but when Gentlemen made alluſions in that manner, it was only poſſible to *gueſs* at their ſignification. He wiſhed the Gentlemen on the oppoſite ſide of the Houſe, according to their own ideas, would be more explicit. He had ſome reaſons, however, to make his ſuppoſitions from the notice which had been given in the Houſe of introducing a new clauſe in the Alien Bill, though he never could admit the policy or neceſſity of that Bill, nor had been able to diſcover its utility. The caprices of miniſters, of which the Right Hon. Gentleman had ſo ill-adviſedly choſen to remind the Houſe, were, Mr. Sheridan confeſſed, unaccountable. They had expelled a few individuals, of whom he believed no perſon ever apprehended much, merely to keep the bill alive; and now, by way of keeping it alive a little longer, they were introducing a new clauſe. It certainly appeared ſingular and inexplicable; for the miniſter muſt either ſuppoſe it criminal in a debtor not to be arreſted immediately, that is, within two or three days after he had incurred the debt, or elſe it was very criminal to be arreſted at all. He then argued to enforce the propriety of an Addreſs to his Majeſty. The Hon. Gentleman (Mr. Ryder) he obſerved, had ſaid, that on the Journals no ſhadow whatever appears of the illegality of the juriſdiction, or the ſentence; and conſequently the caſe, as it previouſly ſtood, had no reference. He begged the Hon. Gentleman to conſider it as the caſe then appeared, without any retroſpect

ſpect to the legality. In this conſideration one thing was to be adduced, which his Right Hon. Friend (Mr. Fox) had before applied; namely, in a caſe of death. In the preſent caſe they had urged, that no petition was admiſſible between the paſſing of the ſentence and the execution of it. What would miniſters do if the ſentence were capital? Would they refuſe to ſuſpend the execution? They knew they durſt not act in a capital caſe, as they meant to do in this. They would not venture to proceed to execution, without examining the contents of the petition. If any miniſter did, the penalty of death ought to be inflicted upon him, and indeed almoſt for maintaining the doctrine. But the ſentence on Mr. Palmer was tantamount to death, and who was competent to tell whether the execution of this ſentence might not be attended with death? If the tranſport ſhould ſail, there were chances almoſt beyond calculation of his death before he could return.—Woe to miniſters if it ſhould be ſo! and let them exculpate themſelves as they could. Suppoſe it had been ſtated by a perſon condemned to die, that he was not guilty; ſuppoſe that he was in poſſeſſion of proofs of his innocence; ſuppoſe that he only believed ſo, or ſuppoſe that ſuch alone were his aſſertions, and they had reaſon to credit thoſe aſſertions; would they not reſpite him until his innocence or guilt were proved? If he contradicts having incurred the penalties of death, and proves that he did not merit the puniſhment to which he was ſentenced, and a miniſter, by his obſtinacy, ſuffers him to die, that miniſter deſerves the penalties of death for his injuſtice.

Let it be remembered, ſaid Mr. Sheridan, that from the Court of Juſticiary there lay no appeal. Let the Houſe imagine that the convict preſented a petition, wherein he ſtated, that he is not the proper object; that the evidence appeared againſt him; that, upon that evidence, and upon preſumption, he was convicted; but that circumſtances have been ſince revealed, which proved and eſtabliſhed his innocence beyond all power of contradiction; would not the petition of ſuch a convict have a claim to be received? He contended, therefore, that the preſent caſe was tantamount; for who is qualified to determine upon the legality or illegality, upon the validity or the impropriety, of a petition, before that petition be received? For theſe reaſons he warned miniſters to be cautious. They were not to premiſe any part of a petition before it be received and read; for that is to be guilty of preſumption; and there was a probability that the lives of the petitioners would pay the forfeit. With regard to what had been ſaid in reſpect to tardy conſciences, he wiſhed the miniſters joy of their conſciences, for he did not think them to be envied;

but if the law were as miniſters maintained it to be, it certainly ought not ſo to remain. If the motion ſhould be rejected by the Houſe, and the tranſport ſhip ſhould ſail before the deciſion of the Houſe upon the petition, miniſters, Mr. Sheridan reminded them, would put themſelves into a ſtate of reſponſibility which they would afterwards wiſh they had never hazarded.

Mr. Anſtruther roſe next, and ſaid, all that Parliament were at preſent informed of was, that Mr. Fyſche Palmer was convicted of ſedition; and being now on the point of receiving the ſentence due to that crime, had petitioned the Houſe, complaining of the ſentence on the grounds of illegality and injuſtice. This petition the Houſe thought ſo novel in its nature, as to require time to conſider of the propriety of receiving it. If, however, it had been received, it could not have been conſidered that day, and the ſame argument would then have applied for delaying the execution as at preſent. The conſequence, therefore, of this doctrine, would be to enable any convict to have the means at hand to delay his own ſentence. The reſponſibility of miniſters in this caſe, he ſaid, was exactly what it was in every other, and no more. As he could not therefore ſee the leaſt reaſon for delaying the ſentence, he ſhould of courſe oppoſe the motion.

Mr. Whitbread, with his uſual ability, defended the principles upon which he acted, which, he ſaid, were ſolely thoſe of humanity in the motion for the Addreſs; and declared, that if no precedent of ſuch a motion as he now brought forward could be found, he would be glad of being the means of creating one. A Gentleman, whom he did not then ſee in his place, had dropped ſome ſentiments, and in a tone of authority, upon his motives, which he thought he had a right to defend, as he ſhould expect, if impelled by wrong motives, to have his motives queſtioned, and their impropriety expoſed. It was upon the ſcore of conſcience. He certainly expected the ſame credit of conſcience as any other perſon; and he not only maintained that an appeal, but that the approbation of his own conſcience was far better, and more ſatisfactory than even the approbation of the Gentleman could be that had oppoſed him. He hoped alſo to be exonerated from another imputation, that of tardineſs. He was not conſcious of having been in the ſmalleſt degree tardy. He ſhould have made inquiry into the caſes and conditions of the unfortunate Gentlemen under ſentence of tranſportation at the commencement of the Seſſion, but that it had been undertaken by abler perſons, and that notice had been given of another motion. An Hon. Gentleman had called the preſent motion novel and

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dinary: Although it might be deemed novel and extraordinary, he hoped that he ſhould have the honour of placing it on the Journals as a precedent for the future. He had confeſſed that he had viſited and converſed with Mr. Palmer, and that he had given his opinion that the ſentence was illegal, unconſtitutional, and oppreſſive. He ſaid, that he certainly had not included Mr. Muir in the preſent caſe, though it was his wiſh to do ſo; but that, according to the regulations of that Houſe, he found that to have ſo included him, would have appeared improper. He concluded with declaring, that, as the reſpite was only for two days, the illegality of the ſentence ought to be preſumed, until the Houſe had finally decided.

The Marquis of Titchfield declared, that his preſent opinion did not tend to the future deciſion of the legality or illegality of Mr. Palmer's ſentence, but went diſtinctly to the petition. Since the petition was to be accepted, he thought the ſentence ought to ſuſpended, if it was urged by no other arguments than the dictates of humanity.

Mr. Wilberforce agreed that the Houſe ought not, either in this or any other queſtion, to loſe ſight of humanity; but he declared he ſaw not the inhumanity of executing a ſentence of the criminal law, after a fair and public trial, and a verdict of a jury; for ſuch he conceived to be the caſe of Mr. Palmer. If there was any error imputable to Gentlemen in that Houſe, it appeared to him to be imputable ſolely to Mr. Palmer's advocates, although he owned he had not read Mr. Palmer's trial. He ſaid he had been inclined from the firſt to think the whole buſineſs ſuſpicious, becauſe Mr. Adam had poſtponed his motion, which motion alone appeared capable of giving them full information on the ſubject. Mr. Wilberforce declared, as a Member of Parliament, he felt it to be his duty and his conſtant buſineſs to ſit in the Committees of that Houſe; and thence found, in thoſe Committees petitions were preſented and received on general grounds, though the allegations they contained often turned out to be falſe; ſo, upon the ſame general principle, he could not object to the acceptance of any petition, however falſe its allegations. He nevertheleſs declared upon his conſcience, that he did not conceive the ſentence ought to be ſuſpended.

Mr. Thompſon ſharply retorted upon the laſt Gentleman, who, he ſaid, had repeatedly come forward in that Houſe upon the Slave Trade, with the profeſſion of humanity; yet he now thought proper to deny it to an oppreſſed and miſerable individual, though he declared he had not read his trial, which upon that ground he thought was the moſt inhuman declaration

veſt juſtices of the peace with ſo great and extraordinary a power. For any thing he knew to the contrary, it might be a very proper Bill; but he wiſhed to appriſe the Houſe of the nature and extent of it, and requeſted that they would conſider it againſt Friday the 7th of March.

SLAVE TRADE.

Sir William Young preſented a petition from the Britiſh Weſt India merchants in London, wherein the petitioners prayed to be heard, either in their own defence or by counſel, againſt the Bill then pending in that Houſe, for an abolition of the Foreign Slave Trade. This petition was urged the more on account of the meaſures which the French had taken relative to the iſlands of St. Domingo and Martinico. The merchants, Sir William ſaid, had only been informed of the Bill then pending on the abolition of the ſlave trade but a few days ſince; he requeſted the Houſe, therefore, to conſider the general principle of the petition, becauſe the merchants had called a meeting on Saturday the 22d. On Monday the 24th, the meeting was held, and the petition drawn up, which was that day preſented to the Houſe, and of courſe not ſo complete or ſo ſpecific as it otherwiſe might have been. He then moved, That the petition be laid upon the table.—Ordered.

Colonel Tarleton alſo preſented another petition to the ſame effect, and on the ſame ſubject, from the merchants of Liverpool employed in the Slave Trade; which was likewiſe ordered to lie on the table.

HESSIAN TROOPS.

Mr. Grey gave notice, that he ſhould again bring before the Houſe a queſtion which they had partly diſcuſſed already. This he did with conſiderable reluctance; but a doctrine had been held in that Houſe with a view to maintain that the King had, by his royal prerogative, a power to introduce foreign troops into this kingdom, without the conſent of Parliament; that having been the caſe, he ſaid, he ſhould deem himſelf negligent of the duty he owed the Public, if he did not mark ſuch alarming doctrine with reprobation, believing, as he did, that ſuch an aſſertion was equally hoſtile to all the principles of a free conſtitution, and irreconcileable to the poſitive law of the land. He would, therefore, on Tueſday the 4th of March, move for leave to bring in a Bill of Indemnity for Miniſters having conſented to the landing the Heſſian troops in this country.

ATTORNIES.

Mr. Sheridan remarked, that the ſecond reading of the Bill which impoſed a tax upon attornies, had been deferred from time to time, ſo long, that he begged ſome day might be named for that purpoſe.

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The Chancellor of the Exchequer named Thurſday the 27th.

He then deſired to know what day the Learned Gentleman (Mr. Adam) intended to bring forward the motion he had put off?

Mr. Adam replied, that he was not competent exactly to name the day. If no queſtion aroſe from the preſentation of the petition on Thurſday the 27th, he ſhould bring it forward at that time, as connected with the ſame principle; but if a queſtion did ariſe, he would bring it forward on the Monday following, which would be the 3d of March.

PENNY POST.

The Houſe reſolved itſelf into a Committee, in purſuance of the order of the day, to conſider of regulations to be adopted upon this head: Mr. Hobart in the chair.

Mr. C. Long roſe, and ſtated to the Committee, that, as the law at preſent ſtood, letters ſent by the penny-poſt from any part of the city of London or Weſtminſter, the borough of Southwark, or the ſuburbs, to any other part thereof, were liable to pay one penny; but if ſent from the city of London, &c. to any place out of that city and ſuburbs, another penny was payable: Therefore he propoſed, that an additional penny ſhould in like manner be payable upon letters put into any penny-poſt-office *out* of the city of London, &c. and conveyed to any place within the cities of London, Weſtminſter, or ſuburbs. The object in laying the additional penny in the manner he propoſed, was in order to defray the additional expence which would be incurred, by increaſing the number of daily deliveries of letters by the penny-poſt, of which he ſignified that there were in future to be ſix, inſtead of only two, as there are at preſent; and that the regulation was intended to take effect as ſoon as poſſible. Mr. Long concluded with moving a reſolution adapted to the ſubject.

Mr. Sheridan objected, on the extraordinary ground of the regulation, which, though termed a regulation, was avowedly meant to have the effect of a tax by way of additional duty. It was a whimſical ſort of Iriſh tax, or penny-poſt, where a man was to pay two-pence for it; and although the caſe was trivial in itſelf, yet the principle on which it proceeded was wrong, for that the regular conduct of finance ſhould be, Firſt, a ſupply was to be agreed upon to a certain amount; and then, after time being allowed to conſider the caſe attentively, the ways and means for raiſing that ſupply were to be propoſed; and again, ſome time was to be given to the Houſe to conſider on the mode of raiſing that ſupply; and the whole being determined, there could not after that regularly be an additional tax for that year. The preſent propoſition was not a new tax

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in point of form or name, but he contended it was ſo in point of fact; for it propoſed an additional tax on the carriage of certain letters under the title of the penny-poſt. It ought, therefore, to have been brought forwaad in the ways and means of the year, for at that time the Public ought to have known all the burdens they were to bear for the enſuing year.

Mr. Baker concurred in opinion with Mr. Sheridan, and ſupported it by additional arguments of a ſimilar nature.

The Speaker pointed out a diſtinction between a committee of ſupply or regulation, ſuch as this, and a committee of ways and means for the year. He admitted that no ſupply for the year could be provided for but in a committee of ways and means for that year, but this caſe did not come under that deſcription; becauſe, in point of fact, the increaſe of the poſtage of letters was not appropriated to the ſervice of the year.

The Chancellor of the Exchequer followed the Speaker on the ſame grounds, and ſaid, that the principle laid down by the Hon. Gentleman (Mr. Sheridan) was by no means univerſal, becauſe caſes occurred almoſt every ſeſſion of Parliament in direct oppoſition to it. In caſes where a tax had been evaded, and a bill was brought in to prevent ſuch evaſions, the natural conſequence was, that the revenue was increaſed: But did any Gentleman ever argue, that ſuch a meaſure muſt be brought forward in the committee of ways and means? In the preſent inſtance it was by no means matter of certainty that the additional duty would increaſe the revenue, becauſe it had not been poſſible to calculate the expences of the new arrangements in the poſt-office, or whether the additional duty would more than cover them; therefore it could not have been ſtated as part of the ways and means of the year.

Mr. Sheridan ſaid in anſwer, that he neither had queſtioned nor did queſtion the propriety of the regulation; he only wiſhed that the principle ſhould be eſtabliſhed, that when the miniſter had once ſtated his ways and means for the year, he ſhould not be repeatedly coming to Parliament to propoſe freſh taxes under the name of regulations.

After ſome further diſcuſſion between Mr. Pitt, Mr. C. Long, and Mr. Sheridan, the Bill paſſed the Committee, and the report was ordered to be received the 26th.

SUPPLY OF SLAVES TO FOREIGN ISLANDS *.

Mr. Wilberforce moved, "That the Bill for preventing the Foreign Weſt India Iſlands from being ſupplied with Slaves by Subjects of this Country, be read a ſecond time."

* The Public, miſled by an unaccountable miſtake of ſome of the daily reporters, have been induced to conceive, that the debate on Mr. Wilberforce's bill reſpected the trade to the Britiſh, inſtead of foreign, colonies.

Sir

Sir W. Yonge declared, that, though he had laſt ſeſſion ſupported a Bill to the ſame effect, yet he in the preſent inſtance felt himſelf bound to oppoſe it; the circumſtances of the queſtion were, he thought, changed and altered entirely ſince the abolition of colonial ſlavery by the French Convention, and the meaſures lately purſued in the French iſlands took place. He reprobated the doctrines of the humanity and policy of the abolition, which he conſidered as wild and viſionary opinions, unfounded in themſelves, and deſtructive to the monied connexions and trading and commercial intereſt of Great Britain. Sir William declared, he conceived it to be the duty of every Member from great commercial towns to oppoſe it. Though he had left the colonies, putting his own fortune, which was indeed but immaterial, out of the queſtion, he conſidered himſelf entruſted with the fate and fortunes of all that remained there. He confeſſed, that, at a former period, he had thought the propoſed meaſure a laudable one; and, if introduced at a proper time, it ſtill ſhould have his ſupport: But the preſent did not appear to be the proper time.

He remarked on the trouble and inconvenience of licenſing every ſlave, and reminded the Houſe, that when our fiſheries had been diſcuſſed and debated, the number of bonds, checks, and dockets, was always allowed to be perplexing and oppreſſive; nor would they be found leſs ſo by the merchants employed in the commerce of ſlaves, in which 600 ſloops, and other veſſels, were conſtantly engaged. Let Gentlemen recollect that land carriage between the iſlands was impracticable, and that ſlaves muſt be perpetually transferred from one iſland to another, even by the ſame planters, for the common purpoſes of cultivation, &c. and they would readily conceive the trouble that muſt of neceſſity enſue.

He obſerved, that already the evils complained of formerly in the ſlave trade were at an end, that the tranſportation to the French Weſt India iſlands had abated ſince the war, and that during the war it was impoſſible the trade could riſe again. If the preſent Bill paſſed, he feared that other Bills muſt follow, which would greatly impede and confuſe the merchants. It might be neceſſary to bring in other Bills to recogniſe the foreign conqueſts as Britiſh; or how could they determine whether the trade with thoſe places conquered ſhould ceaſe or be continued? Sir William ſaid, that he had always taken the middle line of argument that there was no ſort of perſonality in his objections, and that he had never dropped one word of a diſreſpectful tendency. He hoped that the Houſe would examine the petition in the main intent of it, and not be diſpoſed to take any advantage of its obſcurity, which was entirely owing

to the haſte with which it was framed. Sir William concluded with moving for the ſecond reading of the Bill on that day ſix months.

Alderman Newnham ſaid, he ſhould give his negative to the motion, becauſe it could be of no avail, as the principal part of the foreign trade had been already ſuppreſſed by the effect of the war. The harſh terms generally applied to thoſe who oppoſed this wild plan of abolition, ſhould not, the Alderman ſaid, deter him from doing his duty. When he conſidered the immenſe property embarked in the Weſt India trade, and the ſerious conſequences which muſt follow if that trade were loſt to this country, he could not ſuppreſs his aſtoniſhment that Gentlemen ſhould wiſh to hazard ſo much without the certainty of gaining any thing, becauſe the cauſe of humanity would not be ſerved by it: On the contrary, the trade would be carried on by others, and not one negro the leſs would be brought from Africa.

Mr. Burdon declared, he felt himſelf bound, as a man, a Briton, and a Chriſtian, to give his ſupport to a Bill which tended in ſome degree to aboliſh a trade, founded, in his opinion, on injuſtice and inhumanity. He wiſhed that the prevention could be extended not only to foreigners, but that the trade could by any means be totally ſuppreſſed. Had the ſlave trade been aboliſhed when it was firſt propoſed, he could not but think that by getting the ſtart of the French, the meaſures they had recently adopted and put in execution would have been of no importance.

Mr. Vaughan began with ſaying, that whatever aſperity had been ſuppoſed to appear in other quarters, nothing but the higheſt compliments were due to the moderation of a petition againſt the Bill then lying on the table, from the Weſt India planters and merchants, and to the candour and temper of the Honourable Baronet who had juſt ſpoken. He ſaid, however, that he could not on that account ſtifle his own opinions, which were very different from thoſe of a part of his Weſt India friends. He had always been ſurpriſed how any Britiſh coloniſt, whatever he might think of the Slave Trade *generally*, could object to the ceſſation of that part of it which went to the ſupply of *foreigners* with ſlaves, which was all of it that was now in queſtion. He thought it ſomewhat extraordinary, that any Britiſh coloniſts ſhould be anxious to raiſe up rival colonies to ſupplant themſelves. His ſurpriſe was not the leſs to find that the preſent ſtate of things among the French iſlands was thought a new motive to deſire to continue to ſupply foreigners with ſlaves. While the French ſlaves were in a ſtate of convulſion, he conceived that it was very extraordinary to

to wiſh, by pouring in freſh ſlaves among them, to add fuel to fire, and give them freſh reinforcements of mutineers; for ſuch would the newly-imported ſlaves become. In like manner, if the example of French proceedings muſt really be ſo contagious as was apprehended, he thought it little leſs imprudent to multiply the diſaffected perſons in the Dutch, Daniſh, and other foreign ſettlements, by giving them a like ſupply, when it was argued that they would ſoon be unable, probably in conſequence of the contagion now ſpreading, to govern thoſe they had already.

His Weſt India friends had deprecated diſcuſſion in their own meetings, though they allowed, by their reaſonings, that the matter was already ſpread abroad in the colonies. For his own part he knew it was ſo ſpread, and that he was telling no ſecrets, when diſcuſſing the queſtion in that Houſe, with a view to the remedy; he therefore wholly diſregarded the fear, that the minds of the negroes were in ſuch a ſtate of dangerous excitement, that we muſt not appear to give way upon any *one* part of the ſlave queſtion. The votes of the Houſe of Commons, and other ſymptoms of the public feeling, were already known to the ſlaves; and as the Lords would ſoon have to pronounce *Aye* or *No* on the principal queſtion, little would be gained by temporizing and delay on this ſecondary queſtion. Formerly, indeed, the ſlaves in the iſlands were governed by force and by ignorance; but the ſyſtem muſt now be changed. Force, he was ſorry to ſay, muſt ſtill continue, and even be increaſed; but it was too late to govern the negroes on the preſumption of their being ignorant, and by the diſguſting means in uſe to keep up that ignorance. The power of *opinion* over them was now vaniſhed; for if ſtrictly analyzed, this power of opinion ſimply reſolved itſelf into the influence of *ignorance*. It had become neceſſary therefore to reſort to force and to policy; placing our policy in the ſtead of their ignorance. It ought to be remembered, that ideas of liberty were not *innate*, but that they are eaſily communicable, and were now communicated.

He then referred to the fate of the mulatto queſtion among the French, to ſhew that a contrary conduct to theirs would be policy in our caſe, under preſent circumſtances; and that we ought, as ſoon as poſſible, to put the free mulattoes and free blacks on our ſide, and at the ſame time to encourage ſmall ſettlers, and endeavour to ſoften the manners of the mulattoes and blacks, &c. &c.

He denied that it would be a ſafe meaſure to endeavour to conquer the French iſlands, ſince, after gaining all the military poſts in them, we might as little ſucceed in producing inter-

nal tranquillity in them as the French themſelves had done, who had waſted a multitude of troops in the attempt. He ſaid, that conqueſt would produce the very communication between the French and Engliſh iſlands which was ſo much dreaded, and that if we wiſhed to prevent either the inſtigations, or the effect even of the narratives of the French mulattoes and negroes, it could only be done by a national ſeparation between the two ſets of colonies; for that nothing of this ſort could be hoped for if they were under the ſame dominion with ours, without too much interference in the colony legiſlatures.

He took occaſion, in the courſe of his ſpeech, to advert to the ſubject of colony legiſlation; and ſaid, if the clauſes of the preſent Bill claſhed with the colonial rights, this matter, by the rules of the Houſe, muſt be diſcuſſed in the enſuing Committee; but he had aſſured himſelf that every deſire of accommodation towards the coloniſts, on this ſubject, exiſted in the friends of the Bill.

To the *principle* of the Bill, therefore, which was all at preſent in queſtion, he avowed himſelf a friend, having repeatedly divided and taken an active part in favour of it laſt year. He ſhould again, he hoped, be able to vote for it this year; always looking, as he did, to an abolition, at a *proper period*, of the whole of the Slave Trade.

Mr. Eſte contended, that this was rather a Bill of Abolition than of Regulation, becauſe it went to deſtroy the larger branch of the trade, *viz.* that to the Foreign iſlands. In the ſmaller iſlands the operation of it would be particularly felt as a grievance, as the merchants had plantations in each little iſland, and were frequently obliged to tranſport their ſlaves from one to the other, as occaſion and circumſtances might require. Whenever occaſion to do this ſhould occur in future, they would be obliged to make application to the Governor for a licence, and then it would be a matter of option with him either to grant or reject it. Though we declined the trade, we muſt be aware that the Dutch and Spaniards would not forego it; and what advantage could poſſibly ariſe from throwing up the trade into the hands of others, who might treat them with much more cruelty? The poor negroes, from benevolent friends, would be transferred to hard taſk-maſters, who would never be able to do ſo much for them, even if inclined, as ourſelves, becauſe they had not the ſame means of liberal inquiry. Mr. Eſte ſaid, theſe were the reaſons which induced him to think that, if Gentlemen really wiſhed to ſerve the cauſe of humanity, they would vote againſt the Bill.

Mr.

Mr. Vaughan rose to explain ; he
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Mr. Serjeant Watkin
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Mr. Barker expreſſed
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Mr. Fox ſaid, that as the Hon. Gentleman who ſpoke laſt admitted the trade propoſed by this Bill to be aboliſhed for the preſent, and that it had no exiſtence at this time, it would be impoſſible for him to maintain, with any thing like conſiſtency, the impropriety of the Bill: Becauſe, if the trade had no exiſtence at preſent, the queſtion was, "Whether we ſhould now give it a death-blow in reſpect to the export of ſlaves to foreign iſlands, or ſhould hereafter ſuffer it to be revived? The trade having at the moment no exiſtence, what became of all the arguments they had heard concerning the mighty capital embarked in it? the ſanction which Parliament had given from time to time to its continuance? the violent attack on private property? the injury to commerce? the danger of innovation? All theſe arguments, if arguments they could be called, were fled; nothing remained therefore, but that Parliament ſhould take care that, having once fled, they ſhould never return. This was eſſentially and emphatically their duty; becauſe, if Parliament ſhould at this time remain ſilent upon the ſubject, the friends of the trade, on attempting to revive it, would ſay, that not having taken meaſures to prohibit the revival when the trade was dormant, and when no injury could ariſe to any individual, they had tacitly acquieſced in its principle, and held out encouragement for others to venture whenever an opportunity ſhould offer; and it would be further attempted to be proved, that Parliament had, by its ſilence at this moment, pledged itſelf to ſupport this abominable, this execrable traffic. Mr. Fox declared, that for his part he wiſhed the great queſtion to be implicated in the preſent Bill, becauſe it ought to be conſidered as connected with it in an indirect, it was true, but not an uneſſential degree. This was one of the firſt great ſteps towards a gradual abolition. That Houſe, on the great queſtion, had already decided for a gradual abolition, until the total abolition was effected, which they had ſtated ſhould take place, if he miſtook not, by the 1ſt of January 1796; and the abolition of the foreign trade was, at that time, recommended as the firſt meaſure to be adopted for that purpoſe, becauſe it was the moſt practicable, and was likely to be attended with conſequences the leaſt inconvenient and the leaſt dangerous. The year 1794 had arrived, and conſequently but two years remained to carry the whole of their reſolutions into execution and effect, reſpecting a total abolition. Of thoſe reſolutions he conſidered the preſent Bill a material practical part; and the Houſe, in purſuing it, did nothing more than hold out to this country, to Europe, and to the world at large, that they were ſincere in their profeſſions and their intentions.

tentions. He truſted that the Honourable Gentleman (Mr. Wilberforce) who had firſt brought the ſubject forward, would not abate in his zeal and ardour for the glorious cauſe in which he had engaged. Perhaps it might not be abſolutely neceſſary to do more than puſh forward the Bill under diſcuſſion in this ſeſſion; but he was ſure another ſtep towards the total abolition of the trade ſhould not be delayed beyond the next, being clearly of opinion that the ſubject could not be too frequently agitated. Let it be aſked, in what ſtate was this great queſtion at the preſent moment? He would not ſpeak with diſreſpect of the Houſe of Lords; but ſurely if, from the multiplicity of buſineſs before their Lordſhips, this important ſubject had not received their determination, it could not be improper for the Houſe of Commons to be additionally vigilant, and to remind the other Houſe of their ſenſe reſpecting the expediency of a total abolition. Gentlemen ſhould recollect, that the Lords had received the Reſolutions of the Commons, on the ſubject of the Slave Trade, in April 1792. What progreſs they had made in the ſubject he could not learn, but he had underſtood that their Lordſhips had that very day further poſtponed the conſideration of the Slave Trade to the 11th of May. If the Houſe of Lords, therefore, from time to time delayed the conſideration of this queſtion, if they ſhunned it, if they ſhrunk from it, if they ſhifted or neglected it, the Houſe of Commons ought again and again to remind them of their duty, firmly but reſpectfully. The Right Hon. Gentleman (Mr. Pitt) would, he had no doubt, exculpate the Commons of Great Britain, and demonſtrate that they were not deſirous of ſhrinking from giving their opinion in a way the moſt likely to be conducive to the effectual abolition of the trade. Were the Commons Houſe of Parliament to paſs that Bill, and to preſent it to their Lordſhips for their acquieſcence, he entertained too high an opinion of their Lordſhips' wiſdom and juſtice, not to think that their Lordſhips would give it their concurrence. Were their Lordſhips to refuſe their aſſent to the Bill, he had only to ſay, that he ſhould be much diſappointed, ſince the inſtances were very rare indeed, where that Houſe had frequently carried up a Bill for their Lordſhips' concurrence, that their Lordſhips perſiſted in rejecting it. He hoped that Gentlemen were miſinformed, when they had ſtated that the diſcuſſion of the queſtion was likely to produce miſchief. From what he had been able to collect upon the ſubject, he was inclined to believe, that ſince the diſcuſſion of the queſtion had been brought forward in that Houſe, the treatment of the ſlaves in the Weſt Indies had been much more

mild

mild and lenient than before. He would not go into general reaſoning on the ſubject, or ſtate his opinion on the juſtice and policy of the trade; becauſe he thought that the queſtion of juſtice and policy had been fully decided already. If it were poſſible, the trade, in his opinion, ought to be aboliſhed. He would not argue it, but he would take it for granted, that the majority of that Houſe was decidedly in favour of the total abolition. The peculiar part of the trade that the Bill then before the Houſe went to aboliſh, was admitted to be the leaſt objectionable; and it was at a time in which none of his Majeſty's ſubjects could ſuffer any material injury whatever from its entire abolition in that particular branch of the trade to which the purview of the Bill was directed.

The Chancellor of the Exchequer ſaid, that the point that had been moſt relied on by thoſe Gentlemen who oppoſed the Bill, was conſidered by them as a point of delicacy. This point he looked upon in a different view. The wild and improvident meaſure that had been adopted by the French, namely, that of giving liberty to the ſlaves in their iſlands, was the ſtrongeſt poſſible argument that could be advanced in favour of the preſent Bill. Since the French had granted liberty to their ſlaves, there was great and ſerious reaſon for apprehenſion of danger; and the only method of counteracting that danger, was by eſtabliſhing ſuch wiſe regulations as ſhould preſerve order, and maintain our ſuperiority, by gradual reform and limited indulgence on our parts, which would manifeſt the ſincerity of our intentions, at a fit moment, to conſent to a total abolition of the trade. Another point was, that which had been argued by implication in oppoſition to the Bill; but which, in reality, was an additional argument in its favour. He meant the mutiny which was ſaid to be likely to enſue if the trade ceaſed. So far was he from adopting ſuch an opinion, that it appeared to him moſt reaſonable to conclude that the mutiny would be more likely to happen by the continuance of the trade after the French had emancipated their ſlaves, and declared them free: A moment's reflection would ſhew, that it was not from the natives, who were accuſtomed to the habits of their maſters, and were intereſted in their favour, nor was it from ſlaves who had been long imported, but from ſlaves who were lately brought to market, who were raw, ſtubborn, and reſentful at the loſs of their country and independence, that a mutiny was to be expected. He referred to various examples of hiſtory in ſupport of this argument. So much for the caſe, if the general abolition applied only to the limited point of view in which the Houſe had conſidered it;

but in the extent of thoſe principles, to the number of which it may be applicable, let him for a moment aſk, if to increaſe the ſlaves at a time when it was feared they may revolt, becauſe they receive not the ſame benefits as thoſe of the French colonies, was either matter of expediency or matter of policy? In ſuch a combination of circumſtances, the evils would be aggravated by the ſupply of an additional force, which their own trade would neceſſarily import. In the third place, the horrible effect of the ſyſtems of the National Convention had already produced a deſolation in their colonies, and a void of population, which the continuance of our foreign trade would remedy, and empower them to retort upon us by thoſe very inſtruments which we have provided them with. From the circumſtance of his entertaining notions and principles directly the reverſe of the notions and the principles of thoſe who oppoſed the Bill, he declared the Bill ſhould have his ſupport.

Colonel Tarleton ſaid, the Slave Trade to foreign iſlands was ſo far from being at an end, that ſince the laſt ſeſſion of Parliament, forty or fifty veſſels had been fitted out for that trade only from Liverpool.

Mr. W. Smith ſaid, it mattered little whether the trade was at an end, or only reviving. He would adviſe Gentlemen who oppoſed the abolition of this diſgraceful traffic, not to ſuppoſe that thoſe who were deſirous of ſeeing it entirely at an end, were ſo weak as to rely on their aſſertion, that the queſtion of the foreign Slave Trade was at preſent *aſleep*. If the abolition of the trade in general proceeded in the ſame tardy *ratio* that it had hitherto done, it would not be aſleep, in fact, for forty years to come; though, in the mean time, they would effectually adminiſter a ſleeping potion to the ſentiments of juſtice and humanity.

Mr. Cawthorne ſaid, he would not conſent to take advice from Gentlemen whom he knew to act in this buſineſs from principles ſo oppoſite to his own. He did not pretend to be directed by the violence of religious zeal, but acted from the intereſt he took in the benefits of the national commerce. To ſhew the baneful effects this ſyſtem of abolition would have upon our Weſt India colonies, he read an extract of a letter he received from a friend, in which it was urged, that if the endeavours of the abolitioniſts ſhould be perſevered in, the period was rapidly approaching when the *Blacks* would no longer ſuffer the Whites to live amongſt them. It concluded with theſe words: "Thoſe are my *private* ſentiments, *which I wiſh* NOT *to be known.*"

[Perhaps there never was a louder ſhout of laughter in the Houſe than on the mention of the laſt words, and no perſon

took a greater part than the miniſter in the pleaſantry which they excited.]

Lord Sheffield ſaid, a Britiſh Act of Parliament might put the Slave Trade to foreign iſlands into much worſe hands than our own, but could not put an end to it.

Mr. Wilberforce, adverting to the ſtatement of Colonel Tarleton reſpecting the forty or fifty ſhips from Liverpool, ſaid, that when the preſent queſtion was diſpoſed of, he would take an opportunity of moving for the names and clearings of theſe ſhips, to ſee whether the Colonel had been miſinformed, or the information he had himſelf received was to be relied on.

The Houſe then divided, when there appeared,

For the Amendment,	—	38
Againſt it, —	—	56
	Majority.	18

The Bill was read a ſecond time, and ordered to be referred to a Committee.

The Houſe then adjourned.

HOUSE OF LORDS.

WEDNESDAY, *February* 26.

The further conſideration of the Slave Trade was adjourned to Tueſday the 4th of May.

The French Property Bill, with ſome amendments, was reported and agreed to.

The Mutiny Bill was read a third time, and paſſed.

Adjourned.

HOUSE OF COMMONS.

WEDNESDAY, *February* 26.

The time for receiving Petitions was, on the motion of Mr. Mainwaring, enlarged till Tueſday the 4th of March.

Read a third time, and paſſed, the Durham Incloſure Bill.

PRIVATE PETITIONS.

The Speaker, at four o'clock, after ſeveral private Petitions had been preſented, informed the Houſe, that the private buſineſs muſt ceaſe, as public buſineſs of an urgent nature was to come on. He obſerved, that if any inconvenience aroſe from this, Gentlemen had to blame only themſelves, as he attended at three o'clock; and if a ſufficient number of Members had attended to conſtitute a Houſe, the whole, or at leaſt the

the greateſt part, of the private buſineſs might have been by that time tranſacted.

ATTORNIES.

The Chancellor of the Exchequer ſaid, that, before he moved the Order of the Day, for the Houſe to reſolve itſelf into a Committee of the whole Houſe on the Attornies' Tax Bill, it was neceſſary for him to ſtate, that, in conſequence of the repreſentations of ſome of his Learned Friends upon this ſubject, he was induced not to propoſe to the Committee the whole of what he had intended when he opened this ſubject in the Committee of Ways and Means. He meant to omit entirely that part of the tax which related to perſons already under articles to Attornies, and to confine the duty merely to thoſe who ſhall be articled in future.

Mr. Plomer thanked the Chancellor of the Exchequer for this information: He was ſure it would relieve the anxiety of many perſons who were intereſted in the buſineſs.

Mr. Adam declared himſelf adverſe to the tax altogether. He ſtated the profeſſion of an Attorney to be equally uſeful and honourable: They were, he obſerved, well known to be a claſs of men entruſted with the ſecrets of the principal families of the kingdom relative to their moſt important concerns; and whatever might be the miſconduct of a few individual members, thoſe of another deſcription ought not in juſtice to be involved in the diſgrace. This tax would operate to confirm the public prejudice already entertained againſt this uſeful claſs of men, who, if guilty of irregularities, ſhould be reſtricted by regulations, applied as occaſion might ariſe, by the Courts to which they reſpectively belonged.

Mr. Adam ſpoke moſt liberally of Attornies, as a deſcription of profeſſional men; and ſaid, he would take the liberty of recommending to the Courts in Weſtminſter Hall to imitate the regulations which exiſted with regard to the Clerks of the Signet in Scotland, whoſe reſpectable mode of conduct never ſubjected them to any of thoſe diſagreeable prejudices, which unfortunately, from the foul practices of a few, prevailed againſt Attornies in this metropolis, and the ſouthern part of the kingdom.

Mr. Mainwaring ſaid, an opinion and report had gone abroad, and had been with ſome induſtry propagated, that he had been the ſuggeſter of this tax; he took that public opportunity of declaring, that he had never heard of the tax till he heard it from the Chancellor of the Exchequer in that Houſe, for that he had not the honour of being privately conſulted by that Gentleman: He wiſhed to ſay ſo much, in order to reſcue

his character from an imputation, which no part of his conduct had merited.

The Chancellor of the Exchequer, with great candour, acquitted the Hon. Gentleman of any ſhare of the honour or diſgrace that might be attached to the meaſure: But hoped, as he was thus freed from what he conceived an imputation that might have proved irkſome to his mind, that he would give no oppoſition to the Bill.

Sir William Dolben offered ſome obſervations regarding a particular exception in favour of the ſons of Attornies, when——

The Speaker informed him, that the Committee would be the moſt proper place in which, if he wiſhed it, he might riſe and move for the introduction of any clauſe for regulation.

The Houſe then reſolved itſelf into a Committee of the whole Houſe on the Bill. A clauſe was brought in to exempt from the duty of 100l. all clerks now under articles to Attornies, and who ſhall have been ſo before the fifth of the preſent month.—This clauſe was agreed to.

Sir William Dolben ſaid, the obſervation that he had before attempted to make, and to which he had not yet received an anſwer, was, the circumſtance of ſeveral men in the profeſſion having children, whom they might be deſirous to apprentice to themſelves. He wiſhed, therefore, to have a clauſe introduced into the Bill, that the ſons of Attornies, apprenticed to their fathers, inſtead of paying 100l. on being indented, ſhould not pay it till the time of their admiſſion.

The Chancellor of the Exchequer ſaid, the reaſon why he had not replied to the Hon. Baronet's obſervation before was, that he could not do ſo conſiſtently with order; but, he was free to confeſs, that he ſaw not any reaſon why this ſpecies of indulgence ſhould be granted to the ſons of Attornies. The object of the tax was to ſtop, *in limine*, ſuch perſons from entering into the profeſſion as were not able to pay 100l. from a principle that a perſon unable to pay that ſum, was not likely to have received ſuch an education as the nature of the profeſſion certainly required; and if an Attorney was not able to pay this for his ſon, he did not ſee any reaſon to ſuppoſe he could have been able to have afforded him any better education than the ſon of any other perſon, who could not pay this ſum, had received; and the more eſpecially, as he had no fee to pay, which was not the caſe with thoſe who were not in the profeſſion. He hoped, therefore, the Hon. Baronet would not preſs the point further.

Mr. Eſte concurred in this opinion.

Mr.

Mr. Adam wiſhed to know, if this Act was meant to extend to *writers* in Scotland, who are there in the ſame character as Attornies are in this country?

The Chancellor of the Exchequer ſaid, he underſtood not.

The Maſter of the Rolls reminded the Hon. and Learned Gentleman, the Act was applicable only to the King's Courts at Weſtminſter, and to the Courts in Wales.

Mr. Mainwaring wiſhed to know, if the Six Clerks of Chancery, the Filazers, and other officers of the ſeveral Courts, who, in virtue of their offices, might be admitted Attornies, were liable to this tax?

The Maſter of the Rolls replied, that when upon enrollment, for the purpoſe of being admitted Attornies, they were in that caſe to pay, but not upon their taking upon them any of the reſpective offices.

The Solicitor General and *the Chancellor of the Exchequer* ſpoke ſhortly to this point.

Mr. Adam ſaid, that he had a few words to offer with regard to the principle of the Bill, as he had not found an opportunity in any former ſtage, though certainly there could be no good apology made for any neglect of duty in that Houſe. He had aſked whether the Bill was meant to extend to writers in Scotland, who acted there in the duties, characters, and office of Attornies; he was anſwered in the negative; and he was happy to find that it did not extend to them, as they were under regulations which had a much better effect than any tax whatever. As to the preſent tax, it would tend to confound the good and bad together, and induce the Public to look on all profeſſors of the law with a ſort of ſuſpicion; whereas many of them were ornaments to ſociety, as well as to the honourable profeſſion to which they belonged. He conſidered this tax to be againſt the general principle of taxation in this country, which objects to taxing men by corps or claſſes; a mode of taxation which has at all times been conſidered to be dangerous and pernicious, becauſe it operates as a capitation tax, ſo far as it extends. He contended that the tax, inſtead of improving the morals of Attornies, would produce a contrary effect. It was requiſite that Attornies, who were men neceſſarily ſelected frequently to be entruſted with ſecrets of the higheſt importance, and with affairs of the utmoſt conſequence, ſhould be held up to the Public as reſpectable characters. So far from improving the general morals of the profeſſion, the tax, he muſt maintain, would prevent many young perſons in the country, who had received proper and good educations, with a view to this profeſſion, from entering into it; whereas many perſons in the metropolis, who underſtood

ſtood the various chicaneries and the various modes of raiſing money by artifice, trick, and fraud, would find the means of forcing themſelves into it. He thought that a Bill of Regulation ſolely would, on every account, be more adviſeable, and, in all probability, produce much better effect.

The Chancellor of the Exchequer denied any intention to caſt a ſtigma on the profeſſors of the law, many of whom, he was perſuaded, were worthy, honourable, and moſt reſpectable men. He ſaid, the Bill could not operate to throw any aſperſion on the profeſſion at large, in the manner apprehended by the Learned Gentleman who ſpoke laſt; but would operate chiefly as a regulation; for it would prevent perſons of indigent circumſtances, and illiberal education, from coming into the profeſſion. If any further regulation ſhould be adviſeable (and it was not at all improbable), he ſhould be glad of the Learned Gentleman's aſſiſtance upon that occaſion; but he ſaw no ground of reaſonable objection to the principle of the preſent Bill in the point of view in which he had been led to conſider it. In the law, as in all other profeſſions, there were undoubtedly various characters, and it was the intention of the preſent Bill to render them more uniform. He inſiſted that this tax could by no means be deemed a ſtigma on the profeſſion; it had been found neceſſary, for the regulation of many reſpectable trades, to tax them by licence, and it had never been conſidered as a ſtigma upon any of thoſe trades. He had been inclined to think, from the loud and general ſhare of applauſe which was beſtowed when the tax was firſt mentioned, that it would not have met with any kind of oppoſition whatever.

Mr. Sheridan declared, that he ſaw the Bill in the ſame light as his Hon. and Learned Friend, Mr. Adam. He pointed out with great force what appeared to him to be great objections to the Bill. The tax he conſidered as ill-founded in its principle, and likely to be ineffectual in its operation. He alſo thought that, if he might ſo phraſe it, it was a tax of paſſion: It was too much the cuſtom of the preſent day to catch at the prevailing prejudices of the people, and humour them; thus we had entered into a war of paſſion: The very approbation of the Houſe, when this tax was propoſed, clearly demonſtrated it to be the reſult of prejudice againſt a profeſſion, which, though a few individuals connected with it might have acted diſhonourably, abounded with men of the moſt fair and moſt reſpectable characters. Nay, the very expreſſion uſed by the Right Hon. Gentleman, in anſwer to this applauſe, ſhewed the ſource whence this tax originated, *viz.* "*he wiſhed that he could have made it the only article in his Budget.*"

Budget." He took notice of a particular point on which he had not much doubt himſelf, but reſpecting which ſome perſons were under ſerious apprehenſions: Perſons profeſſing the Catholic religion had practiſed as Attornies, and this was ſaid to be a practice by the connivance of the Proteſtant profeſſors, for that the Catholics had not a right by law to act as Attornies. He did not mean to ſay that this was his own opinion, for his opinion was the other way, that the Catholics had, and ought to have, that right. But he wiſhed to know, whether any thing was to be done to quiet apprehenſions on that ſubject? He obſerved, that the Hon. Gentleman had ſaid, taxes were laid on other reſpectable trades, which was not conſidered a ſtigma upon thoſe trades. True, there were taxes for licences on ale-houſe keepers, dealers in ſpirits, and others of the like kind, but theſe were calculated merely to regulate the exciſe duties. There were alſo taxes paid by perſons who held places under Government, in the manner and form he was certain the Right Hon. Gentleman (Mr. Pitt) thought no ſtigma.

The Chancellor of the Exchequer denied that he had uſed the words in the manner and form in which Mr. Sheridan had quoted them; they were uſed in warmth, and when the Houſe was by no means orderly, and merely on the *ſpur of the occaſion*; but, as well as he could recollect, his words were, he *wiſhed every article in his Budget was as highly approved.*

The Solicitor General obſerved, that, with reſpect to Attornies of the Catholic religion, there were only about twenty Gentlemen in that ſituation, many of them advanced in years, and ſome above ſixty, all of the higheſt reſpectability, and that the ſubject was worthy of the moſt ſerious conſideration of the Legiſlature.

Mr. Jekyll ſaid, that this tax was a very great hardſhip, as the Court could ſtrike from the roll any perſon, or cancel his indentures, from even an opinion that he was not qualified to act as an Attorney.

Mr. Sheridan ſaid, that what had fallen from his Hon. and Learned Friend (Mr. Jekyll) weighed much in his mind. The preſent Chief Juſtice, the honour and integrity of whoſe conduct merited every applauſe, had taken much pains to render this profeſſion reſpectable, by removing from it ſuch perſons as he could lay his hand on, for their irregularity and miſconduct. He muſt now find his hands very much tied up, as to the removal of Attornies, after paying this tax, or they will be dealt with unjuſtly, if, after paying ſuch a ſum, they were liable to be removed at the pleaſure of the Court, without having their admiſſion-fee refunded. He alſo obſerved, that inſtead

moved while in a ſtate of health unfit for it. The Bill he propoſed to bring in was intended to empower Juſtices, on ſeeing perſons incapable of moving, to ſuſpend their removal till they were fully able to proceed. On this part of the intended Bill he preſumed there could not be a difference of opinion, and of courſe no oppoſition.

Mr. Eſte ſaid, that he would ſtate the law as it now ſtood, with his objections to it, in as few words as poſſible. The 13th and 14th of Charles II. enabling Juſtices to remove the poor from pariſh to pariſh, gave a latitude to Magiſtrates to indulge caprice or paſſion, in caſes where objects came within the letter, though not within the contemplation or ſpirit of thoſe laws, but particularly where (as almoſt every day happened) a perſon was getting an honeſt livelihood in another pariſh by induſtry or ingenuity in any art, or at any ſpecies of labour not in requeſt, or not to be had in his own. In ſuch caſes, great hardſhips were endured, in the firſt place, by the object himſelf, in being forced from an honeſt and profitable livelihood to a ſtate of bare dependent ſubſiſtence—in the next place, by the pariſh to which he was removed, in being thus loaded with an unneceſſary portion of expence—and, in the laſt place, by ſociety and the country at large, in being thus deprived of the perſon's contributive ſhare of labour, and the advantage to be derived from it.

To his knowledge, Mr. Eſte ſaid, there were many Magiſtrates who, though very deſirous to mitigate the rigour of the Poor Laws in the inſtances he alluded to, thought themſelves incompetent to do ſo, and imagined from the wording of the acts, that there was no diſcretion veſted in them to exerciſe their judgment in the interpretation of the relative ſtatutes, or to take into their conſideration whether the perſon was likely to become chargeable or not before they removed him.

No riſk, he ſaid, could poſſibly be incurred in urging this remedial experiment: For it had been tried before, in the 1ſt and 2d of William III.—when it was enacted, that the Pauper ſhould be permitted to remain, on his obtaining a certificate from the officers of his proper pariſh, ſtating that he belonged to it—but it was found too difficult to prevail on the pariſh officers to comply with this; for they generally thought it hard, that when another pariſh was perhaps for 30 or 40 years reaping the benefit of the perſon's labour, they ſhould be burdened with his ſupport and maintenance in the time of his old age and infirmity; and thus the proviſions and ſalutary intention of thoſe Acts were completely defeated.

There was another Act alſo, Mr. Eſte ſaid, which extended the ſubſtance of the proviſions which he meant to move to have

have enacted by the propoſed Bill, to Soldiers and Mariners having ſerved his Majeſty, and even to thoſe who have ſerved in the Militia.

Leave was therefore given for bringing in a Bill accordingly.

MR. ATKINSON'S PETITION.

Mr. Taylor gave notice, that he ſhould delay no further than Monday the 3d of March, the ſubject matter of the Petition of Mr. Atkinſon, unleſs the public buſineſs ſhould on that day be very preſſing, in which caſe he ſhould take it up on Friday the 7th.

The Chancellor of the Exchequer ſaid, that on that day he ſhould propoſe to the Houſe to go into a Committee of Ways and Means on the ſubject of the Navy Debt, and to diſcuſs the ſubject on the Wedneſday following.

DUTY ON COALS.

Mr. Alderman Anderſon ſaid, he was authoriſed to ſtate to the Houſe, on behalf of the Lord Mayor, Aldermen, and Common Council of the City of London, that they did not intend to apply to the Houſe of Commons by petition, or otherwiſe, this year, for relief from the heavy tax impoſed on them by way of duty on the importation of coals; although they felt it heavily, for that, in point of fact, they paid upwards of 130,000l. a year more than any other claſs of his Majeſty's ſubjects, and were of opinion that ſuch a burden was laid on them in an unconſtitutional and unjuſt manner. The Alderman ſaid, the reaſon the City had for not applying, aroſe out of a conſideration of the preſent circumſtances of the country, to which they thought it incumbent on them ſo far to ſubmit, as to bear the inconvenience and hardſhip they laboured under in reſpect to the partial and oppreſſive coal duty, of which they had ſo much juſt reaſon to complain, but that they would renew their application to Parliament at a more convenient ſeaſon.

MR. PALMER'S PETITION.

The Order of the Day being read to reſume the debate on the queſtion for receiving the Petition of the Rev. John Fyſche Palmer, complaining that his trial and ſentence for ſedition in Scotland was unjuſt, oppreſſive, and unconſtitutional,

Mr. Sheridan ſaid, he underſtood that the Chancellor of the Exchequer had made good uſe of his time ſince the debate on that ſubject was adjourned, and that he was now ready to conſent to the receiving this petition. Indeed, the queſtion was ſo plain, that it ought never to have been argued; the petition

ought to have been brought up at once and read, and there should never have been a doubt expreſſed upon the ſubject; nor would it be neceſſary for him to argue the caſe, becauſe it was too clear to require any elucidation that the moſt elaborate argument could give it. He had found ſeveral precedents exactly in point upon this matter, but it would be unneceſſary for him to detail them all. He mentioned, however, the caſe of an individual as being exactly in point with the preſent petition. This man was convicted before the Recorder, and was ordered to be three times pilloried. The Parliament ordered the proceedings in this caſe to be laid before them, declared them to be illegal and oppreſſive, and reverſed the ſentence. Their ſtanding Committee of Courts of Juſtice, he ſaid, was a mockery upon the country, if the ſubject had not a right to apply to that Houſe for a redreſs of grievances, when he conceived himſelf injured by the adminiſtration of juſtice in any of the Courts of the kingdom. He therefore preſſed it to the conſideration of the Chancellor of the Exchequer, whether it would not be well to aſſent to the production of the record in the caſe of Meſſrs. Muir and Palmer, in order to enable them to diſcuſs the merits of that buſineſs the more fully. He concluded with moving, that the petition be brought up.

The Chancellor of the Exchequer ſaid, he did not riſe to object to the motion, but the inconvenience which would reſult from the Houſe taking up the caſe of every individual who might petition againſt the execution of his ſentence muſt be obvious; he, however, admitted that, on communicating with others upon the nature of this caſe, he found there were grounds for bringing up the petition.

Mr. Fox ſaid, he was exceedingly alarmed when a doubt was expreſſed as to the propriety of receiving this, or any petition that ſtated a complaint of a ſentence, or any part of the proceedings of a Court of Juſtice. The right of petitioning in that caſe, and the duty of the Houſe to attend to ſuch a petition, were ſo clear, that he wondered they ever could have been queſtioned. The doctrine on that ſubject was ſo clear, ſo juſt, ſo indiſputable, and ſo well exemplified by the conduct of the Parliament which ſat in 1741 (a Parliament which, in the early part of its proceedings, did more good to this country than all the reſt put together), and which was almoſt excluſively occupied in receiving, deliberating, and deciding on ſuch petitions as that of Mr. Palmer, that a doubt upon ſuch a queſtion at the preſent moment excited his aſtoniſhment. So far was it from being doubtful that Parliament ſhould attend to the petitions of individuals, complaining of the injuſtice or

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HOUSE OF LORDS.

THURSDAY, *February* 27.

After reading the several Bills on the Table, the House proceeded to Westminster Hall, on the

TRIAL OF MR. HASTINGS.

At Four o'clock the Lords returned, and entered into debate on the question referred to their decision by the Managers, after which they sent a Message to the Commons, that they would proceed on the trial of Mr. Hastings on Saturday the 1st of March; and then adjourned.

HOUSE OF COMMONS.

THURSDAY, *February* 27.

The Clayton Six Moors Inclosure, Warwick Canal, St. Alban's Road, and the Scotch Bank Bills, were reported, and ordered to be ingrossed.

A new Writ was ordered for Banbury, in the room of the *Hon. Frederick North*, who had accepted the office of Comptroller of his Majesty's Customs.

A Message was received from the Lords, that their Lordships would proceed further in the trial of Warren Hastings, Esq. on Saturday the 1st of March; and that their Lordships had agreed to several public and private Bills, among which was the French Property Bill, with amendments.

The amendments in the French Property Bill were taken into consideration, and agreed to.

SLAVE TRADE.

Mr. Wilberforce moved, "That a list of all the ships cleared out from Liverpool to the coast of Africa, from July 1793 to the latest dates, be laid before the House; and also of the number of Slaves imported into the British West India islands in 1791, 1792, and 1793."

Colonel Tarleton seconded the motion.

PARISH SETTLEMENTS.

Mr. Este desired to call the attention of the House to that part of the Poor Laws which related to the removal of the Poor. He said, that this was a subject on which he should have entered with some degree of hesitation, as so many able men had before failed in their attempts in it, did he not know, that since those attempts had been made, some changes had taken place that would give him better ground to stand on. In consequence of the unfeeling neglect of officers, and the rigorous exercise of the powers of overseers and churchwardens, many unfortunate creatures had died by being re-

ought to have been brought up at once and read, and there should never have been a doubt expreſſed upon the ſubject; nor would it be neceſſary for him to argue the caſe, becauſe it was too clear to require any elucidation that the moſt elaborate argument could give it. He had found ſeveral precedents exactly in point upon this matter, but it would be unneceſſary for him to detail them all. He mentioned, however, the caſe of an individual as being exactly in point with the preſent petition. This man was convicted before the Recorder, and was ordered to be three times pilloried. The Parliament ordered the proceedings in this caſe to be laid before them, declared them to be illegal and oppreſſive, and reverſed the ſentence. Their ſtanding Committee of Courts of Juſtice, he ſaid, was a mockery upon the country, if the ſubject had not a right to apply to that Houſe for a redreſs of grievances, when he conceived himſelf injured by the adminiſtration of juſtice in any of the Courts of the kingdom. He therefore preſſed it to the conſideration of the Chancellor of the Exchequer, whether it would not be well to aſſent to the production of the record in the caſe of Meſſrs. Muir and Palmer, in order to enable them to diſcuſs the merits of that buſineſs the more fully. He concluded with moving, that the petition be brought up.

The Chancellor of the Exchequer ſaid, he did not riſe to object to the motion, but the inconvenience which would reſult from the Houſe taking up the caſe of every individual who might petition againſt the execution of his ſentence muſt be obvious; he, however, admitted that, on communicating with others upon the nature of this caſe, he found there were grounds for bringing up the petition.

Mr. Fox ſaid, he was exceedingly alarmed when a doubt was expreſſed as to the propriety of receiving this, or any petition that ſtated a complaint of a ſentence, or any part of the proceedings of a Court of Juſtice. The right of petitioning in that caſe, and the duty of the Houſe to attend to ſuch a petition, were ſo clear, that he wondered they ever could have been queſtioned. The doctrine on that ſubject was ſo clear, ſo juſt, ſo indiſputable, and ſo well exemplified by the conduct of the Parliament which ſat in 1741 (a Parliament which, in the early part of its proceedings, did more good to this country than all the reſt put together), and which was almoſt excluſively occupied in receiving, deliberating, and deciding on ſuch petitions as that of Mr. Palmer, that a doubt upon ſuch a queſtion at the preſent moment excited his aſtoniſhment. So far was it from being doubtful that Parliament ſhould attend to the petitions of individuals, complaining of the injuſtice or

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the irregularity of their ſentences, that almoſt all the numerous caſes in which Parliament interfered, and corrected the proceedings of Courts of Juſtice, were neceſſarily the caſes of individuals. The Long Parliament, however faulty it might have been in other reſpects, yet had, in this reſpect, rendered the moſt eſſential ſervices to their country, by receiving and attending to the petitions of perſons conceiving themſelves aggrieved by the deciſions of the Star Chamber, a Court which, although now extinct from its abuſes, was then perfectly legal, and had certainly rendered much ſervice, by many of its deciſions. The Parliament had not only received theſe petitions, but had, in many of them, either reverſed the whole proceedings, or the ſentence, as appeared neceſſary, and compenſated the ſufferers. Mr. Fox recited a great number of theſe caſes, and concluded with obſerving, that it would have been matter of great alarm to the Public, if that Houſe had laid down a precedent for not receiving a petition for examining into the proceedings of a Court of Juſtice.

Mr. Erſkine expreſſed ſome doubts of the regularity of having put off the motion of Mr. Adam a few days ſince, merely becauſe the Chancellor of the Exchequer entertained a doubt upon the ſubject. The Houſe, and not an individual, ought to determine upon ſuch points. He ſuggeſted this merely for the ſake of obtaining information on the ſubject, as he was not in the Houſe at the time he alluded to.

The Chancellor of the Exchequer ſaid, that he never had denied the right of the ſubject to petition Parliament, but was only againſt the light exerciſe of that privilege, becauſe if it was conſidered a matter of courſe, that ſuch petitions were to be received from every perſon who thought himſelf injured, there would not be one perſon convicted who would not find ſuch a plea. With reſpect to the petition of Mr. Palmer, he was ſatisfied of the propriety of receiving it, and therefore ſhould not oppoſe it.

Mr. Adam ſaid, that in conſequence of the indiſpoſition of Mr. Dundas, he would poſtpone his motion—perhaps the Right Hon. Gentleman might be able to attend on Monday. He ſhould be extremely ſorry to have the ſubject diſcuſſed in his abſence, on every account; firſt, on account of the place he held in the executive government, which had charge of the execution of thoſe caſes; ſecondly, on account of his connexion with that part of Great Britain where the grievance complained of happened; and, thirdly, on account of the Right Hon. Gentleman having once filled the office of Lord Advocate of Scotland, and being therefore more likely than any

His Lordſhip moved, with authority of the Noble Earl who had ſigned the Proteſt, that the words "with the exception of one Noble Lord, not one of his Majeſty's miniſters," be expunged.

Earl Stanhope declared, he was glad to find that no one individual Peer was audacious enough to aſſert that it was legal and conſtitutional for the King to keep foreign troops in the kingdom without the conſent of Parliament. He rejoiced therefore at the courſe of proceeding then before the Houſe, as it would ſtand on the Journals, and prove that no one Noble Lord ventured to maintain that it was legal to keep foreign troops without conſent of Parliament.

Lord Auckland replied, that the Noble Lord had given a turn to the proceeding then before the Houſe, that did not belong to it. There was ſomething in the Noble Lord's expreſſions which ſeemed to convey an idea of the preſent motion, as if it were in ſome degree a recantation of the opinion of a former day. His opinion, as he had pronounced it, and as their Lordſhips would recollect it, had no reference to the *keeping* troops in the kingdom, whether with or without the conſent of Parliament. His poſition was, "That he was not prepared to ſay it was legal, but he did not know, nor believe it to be illegal; for the King to land foreign troops in this kingdom in time of war: That this was a part of the prerogative, to be exerciſed, as in other caſes where the law is ſilent, for the benefit of the country; that, like every other exerciſe of the prerogative, it is to be juſtified to Parliament, by the expediency or emergency of the circumſtances." Farther reflection had convinced him that this doctrine is accurate and conſtitutional. At the ſame time he felt no difficulty in declaring, that foreign troops, ſo brought by the King, cannot be kept in this country, either in peace or in war, without the conſent of Parliament. The diſtinction between the two poſitions of law was plain and obvious. In diſclaiming the one, which he never had aſſerted, he did not mean to relinquiſh the other, or to depart from it in any degree.

The motion for expunging the words objected to by Lord Auckland, was carried.

HOUSE OF COMMONS.

MONDAY, *March* 3.

The Speaker informed the Houſe, that, as the next day would be the laſt day of receiving private Petitions, he ſhould be ready to take the Chair at half after two o'clock.

SCOTS

SCOTS JUDICATURE.

Mr. Fox ſaid, that a Learned Friend of his (Mr. Adam) who was not then in the Houſe, deſired him to ſtate for him, that he had deferred the motion of which he had given notice for this day (on the ſubject of Trials for Sedition before the Court of Juſticiary in Scotland) to Monday the 10th, on account of the great probability of the attendance of a Right Hon. Gentleman (Mr. Dundas), as well as many others who could not conveniently attend until that day.

COMMITTEE OF SUPPLY.

The Chancellor of the Exchequer moved the Order of the Day for the Houſe to reſolve itſelf into a Committee of Supply on the ſubject of the Navy Debt.

The Houſe having ſo reſolved itſelf into a Committee, and Mr. Hobart being in the Chair, the Chancellor of the Exchequer reminded the Committee, that on a former day he had given notice that he ſhould have a Reſolution to propoſe in a Committee of Supply on the Navy and Victualling Bills; the detail of which he ſhould lay before the Houſe on Wedneſday the 5th.—He then moved the reſolution, "That proviſion be made for enabling his Majeſty to diſcharge debts due on all Navy and Victualling Bills made out to the 1ſt of March 1793, amounting to 1,530,094l. 18s. 1d."

The reſolution was put and carried, and the report of the Committee was ordered to be received the 5th.

The Houſe then agreed to go into a further Committee of Supply on Wedneſday the 5th.

HESSIAN TROOPS.

Mr. Grey gave notice, that, in conſequence of the next day being the laſt for receiving private Petitions, he ſhould poſtpone the Motion, of which he had given notice for that day, until Tueſday the 11th, as he underſtood that his bringing it forward at the time he firſt intended, would very much incommode ſeveral Gentlemen who had private buſineſs to bring forward.

MR. ATKINSON.

Mr. M. A. Taylor roſe, in order to preſent a Petition which he held in his hand from Mr. Chriſtopher Atkinſon; the prayer of it, Mr. Taylor ſaid, was, "That the Houſe would expunge from their Journals, the Reſolutions they had made concerning him." Mr. Taylor ſtated the grounds which called for the preſent application, and explained the object of it. Mr. Atkinſon having formerly conſiderable buſineſs with the Victualling Board, in ſupplying them with corn, had

been accuſed in the public prints of various mal-practices, and theſe accuſations had all been ſigned by a man of the name of Bennett. Mr. Atkinſon intending to ſue Bennett for damages for having libelled him, made an affidavit, which was a neceſſary meaſure previous to filing his bill, wherein he ſwore he had never made any other advantages than what the Board allowed him. Upon this affidavit, which had been drawn by very eminent attornies (Meſſrs. Wallis and Troward), and reviſed and ſettled by the late Lord Aſhburton (then Mr. Dunning), he was afterwards indicted for perjury, and convicted in 1781. The Attorney General of that day (Mr. Wallace) likewiſe filed a bill againſt him in the Court of Exchequer, to force him to account for thoſe ſums of which his conviction ſuppoſed him to have defrauded the Public. In conſequence of this proceeding a very minute inveſtigation into the long detail of his accounts took place, and the reſult was a very honourable acquittal of all imputation of fraud, by the concurrent teſtimony both of the Bench and the Attorney General. He ſuffered the puniſhment inflicted by the ſentence of the Court before which he was convicted, but afterwards applied to the mercy, or rather the juſtice, of the Crown, and received a pardon, which did away all the legal incapacities which his former conviction and ſentence impoſed on him. The preſent was an application to that Houſe, to reſcind the vote of expulſion they had paſſed upon his conviction. Mr. Taylor ſaid, he intended, for the preſent, merely to bring up the petition, to have it referred, on a future day, to a Committee, to report on the merits of the caſe; and upon their report he ſhould offer ſuch reſolutions as that report ſhould ſeem to require.

Sir Francis Baring oppoſed the petition, ſtating as a reaſon, that the tranſaction itſelf bore the ſtrongeſt marks of fraud and enormity, with the ſlighteſt veil thrown over it. He curſorily enumerated the particulars of the caſe to prove this, and gave it as his opinion that Mr. Atkinſon had been juſtly convicted.

The Maſter of the Rolls ſaid he had no objection to receiving the petition, but he declared againſt any other proceeding to be had upon it. He conſidered Mr. Atkinſon as ill-adviſed in his preſent application, as it was forcing a diſcuſſion of the merits of his caſe in that Houſe, which it had not done before; their former vote of expulſion being merely a matter of courſe, as the neceſſary conſequence of any Member being convicted of the crime of perjury. The preſent application was, beſides, uſeleſs, becauſe Mr. Atkinſon's pardon from the Crown having reſtored him to all his former rights, the vote of expulſion in a former

a former ſeſſion of Parliament did not prevent his ſitting in the preſent, or any future ſeſſion.

Mr. Bearcroft argued with great zeal and ability in favour of Mr. Atkinſon, whoſe affairs, he ſaid, had been very unfortunate, and greatly miſrepreſented. He diſclaimed any imputation on the judge and jury who condemned him, and thought the caſe widely altered ſince the judgment in the Exchequer, in conſequence of which he had received from the mercy of the Crown (it might, perhaps, be ſaid from its juſtice) a full pardon: This pardon might be pleaded in every Court of Law, and was concluſive in his favour.

The Houſe, in adopting the reſolutions concerning Mr. Atkinſon, he contended, did not proceed on any particular acquaintance with the ſubject, but only voted them as a matter of courſe, after the judgment in the King's Bench. The merits of the caſe they never had examined, but founded their opinion on the authority of that Court; the ſentence of which was in fact annulled by the Royal pardon. He avowed, therefore, that he felt inclined to ſupport the motion, and to countenance the ſubſequent ſteps propoſed, as well from general principles, as from the opinione he had formed on the caſe in his former capacity of Counſel to Mr. Atkinſon.

Mr. Alderman Curtis conceived the caſe of Atkinſon to be too enormous to allow of the bringing up of the petition.

Mr. Ryder called the Alderman to order, and reminded him that the motion was only for receiving the petition.

Mr. Mainwaring thought it unfair to confine the worthy Alderman ſo ſtrictly to the queſtion, as others had been permitted to deviate.

The Speaker gave it as his opinion, that Alderman Curtis was in order, becauſe, he ſaid, he preſumed that Hon. Gentleman urged his general condemnation of the caſe, as a reaſon for his intended oppoſition to the preſent motion.

Alderman Curtis concurred with the Speaker, and reſumed his ſpeech.

The Chancellor of the Exchequer, in a ſpeech of ſome length, maintained the regularity of the preſent motion; but deſired it to be well underſtood, that, although he had a leaning as to his opinion on the merits of the caſe itſelf, he abſtained from ſaying a ſyllable as to the tendency of that opinion. By acceding to this motion, the Houſe ſhould underſtand it ſtood pledged for nothing either one way or the other.

Mr. Francis gave his aſſent to the motion, merely on the general ground of ſupporting the right of the ſubject to petition the Houſe, be its deciſion ultimately on the merits of the caſe what it might.

The Petition was then received, and ordered to lie on the table.—Adjourned.

HOUSE OF LORDS.

TUESDAY, *March* 4.

The Order of the Day, for proceeding farther in the Inquiry reſpecting the Slave Trade, was diſcharged, and a new order made for Tueſday the 10th.

The Biſhop of Rocheſter gave notice, that on Tueſday the 10th he ſhould ſubmit a propoſition to their Lordſhips, for facilitating their progreſs in this buſineſs.—Ordered that the Lords be ſummoned for Tueſday the 10th.

Adjourned till Thurſday the 6th.

HOUSE OF COMMONS.

TUESDAY, *March* 4.

Several Petitions were preſented from certain woollen manufacturers, complaining that a monopoly was introducing into the trade by men of large capitals, to the great detriment and probable ruin of the numerous manufacturers of ſmall capitals, and praying general relief. Ordered to be laid on the Table.

Mr. Mainwaring preſented a Petition, ſigned by ten thouſand perſons, ſome of them creditors, ſome proprietors of the Royalty Theatre, in Wellcloſe-Square, and other inhabitants of the eaſtern part of London. The petition ſtated, that this theatre was opened for dramatic performances by Mr. John Palmer, and that the petitioners were intereſted in that theatre, and prayed that a licence might be had for the regular performance of dramatic works during the ſummer ſeaſon.

Referred to a Select Committee, who are to make their report to the Houſe.

Mr. Long preſented a copy of the Treaty, or Tariff, between the Elector of Hanover and the King of Great Britain, relative to the employment of Hanoverian troops in the pay of Great Britain.—Ordered to be laid on the Table.

Read a third time, and paſſed, the Bill to enable the Proprietors of the Bank of Scotland to increaſe their capital.

The Chancellor of the Exchequer ſaid, that, after mature deliberation on the Duty on Slates and Stones, he had thought it adviſeable to alter the mode he had at firſt ſuggeſted for collecting that duty: This he ſhould do in a Committee the 5th. He thought it neceſſary alſo to give notice, that on Thurſday the 6th, he ſhould move for leave to bring in a Bill for enabling

enabling his Majeſty to increaſe the number of Militia Forces, and to augment that ſort of power for internal defence, in order that his Majeſty might be the better enabled to employ his other forces with vigour abroad.

Sir Watkin Lewes wiſhed to know whether Limeſtones were to be ſubject to the new duty.

The Chancellor of the Exchequer ſaid they were to be excepted altogether.

The Attornies' Tax Bill was deferred to Thurſday the 6th, and the other Orders of the Day to Friday the 7th.

JOHN HUNTER'S MUSEUM.

Mr. Pelham preſented a petition to the Houſe from Mr. Matthew Baily and Mr. Edward Home, reſpecting the purchaſe of the late Mr. Hunter's Muſeum; the petition ſtated, that under the will of Mr. Hunter, the Muſeum was deviſed to them to be diſpoſed of for certain purpoſes: That it was firſt to be offered to the Government of this country, at whatever might be thought a fair price between the contracting parties: In caſe our Government ſhould refuſe to purchaſe it, they were directed by the will to offer it for ſale to any foreign government that ſhould chuſe to purchaſe the ſame.

The Petition was ordered to lie on the table.

Mr. Pelham ſaid, that on a future day he ſhould make a motion grounded on the Petition.

DRURY-LANE THEATRE.

Mr. Fox preſented a Petition from Richard Brinſley Sheridan, Eſq. on behalf of himſelf and all the other Proprietors of the Theatre in Drury-lane, ſtating that a vaſt expence had attended the rebuilding of that edifice; that many houſes on the ſouth ſide of it, and other places, ſhould be pulled down, to render the avenues more commodious, &c. and that the Theatre could not be made complete by the powers which the Proprietors could at preſent by law exerciſe, and praying the aid of Parliament.—Referred to a Select Committee.

HOUSE OF COMMONS.

WEDNESDAY, *March* 5.

IMPEACHMENT.

Mr. Burke moved the Houſe, that a Committee be appointed to inſpect the Journals of the Lords, relative to their Lordſhips' Proceedings in the Trial of Warren Haſtings, Eſq. Ordered. And that the Committee do conſiſt of the Managers appointed to conduct the ſaid Trial.

Read a third time, and paſſed, the Clayton le Moor Incloſure, and Ayleſham Road Bills.

NAVY

NAVY DEBT.

The Houſe having reſolved itſelf into a Committee of Ways and Means for raiſing a Supply, for enabling his Majeſty to pay off certain Navy and Victualling Bills,

The Chancellor of the Exchequer opened the nature of the proviſion to be made for the purpoſe of paying off all Navy and Victualling Bills made out on or before the 31ſt of March 1793. The ſubſtance of the plan was, that the holders of the Navy and Victualling Bills of the above deſcription ſhall be allowed the amount of their demand in the Five per Cents Stock, at the rate of 99, which Stock being at this time a little above par, this is full 10il. for every hundred. And all Navy or Victualling Bills that may iſſue after the 12th of April 1794, are to bear intereſt from the time they are iſſued, and ſhall be payable in fifteen months from that time.—The Chancellor of the Exchequer moved a Reſolution to that effect, which was put and carried.

STONES, SLATES, AND MARBLE.

The Chancellor of the Exchequer called the attention of the Committee to the duty to be impoſed on theſe articles, and pointed out, that, from their great variety, it would be better to place the duty rather on value than weight. He alſo obſerved, that there was a duty on thoſe materials at preſent, when coming from the iſlands of Jerſey, Guernſey, Sark, and Man, but that it was ſomething leſs than the duty in contemplation amounted to. It would, however, in his opinion, be expedient to equalize this duty throughout all parts of his Majeſty's dominions; and therefore he meant to propoſe to repeal the preſent impoſt, and to ſubſtitute one in its ſtead exactly ſimilar to that about to take place in England.

With this view he propoſed the following Reſolutions:

1. That it is the opinion of this Committee, that the preſent duty on Stones, Slates, and Marble, coming from Jerſey, Guernſey, Sark, Alderney, and Man, do ceaſe and determine.

2. That a duty of 20 per cent. be laid on thoſe articles when coming from thoſe places.

3. That the ſame duty be laid on the ſame articles carried coaſtways from any part of England.—Agreed to.

ADDITIONAL MILITIA.

The Chancellor of the Exchequer moved, "That it is the opinion of this Committee, that the additional expence of the increaſed Militia be charged on the Land Tax for 1794."—Agreed to, and the Reſoluſions ordered to be received.

LEEDS

LEEDS AND LIVERPOOL CANAL.

On the second reading of this Bill, the House divided:
For the Bill 100—*Against it* 9——*Majority* 91.
The Bill was then ordered to be engrossed.—Adjourned.

HOUSE OF COMMONS.

THURSDAY, *March 6.*

The Report of the Committee of Ways and Means for raising the Supplies to pay off certain Navy and Victualling Bills, as also for regulating, altering, and adding to the duties on Stones, Slates, and Marble, and for paying and clothing the Militia, was brought up, and the Resolutions read.

Leave was given to bring in a Bill, to enable the Greenland ships to complete their full complement of men at Shetland.

The East India Judicature Names were reported, and read over.

Mr. Mitford, from the Exchequer, presented eight Accompts, which were ordered to lie on the table.

Leave was given to bring in a Bill for the Regulation of Boat-men, Wherry-men, and Lighter-men, on the River Thames.

PAPER.

The Bill for the Duty on Paper was read a first time, and ordered to be read a second time.

THE SABBATH.

Mr. Mainwaring brought on his promised motion respecting the due observance of the Sabbath. He said that the Act of the 29th of Charles II. which annexed penalties to the breach of that day, was found insufficient for the due enforcement of its provisions, on account of the difficulties that lay in the way of its execution. He declared, that he would be as far as any man from exacting a rigid or severe execution of any penal law; but he considered it to be material to the general interests of the community, that divine worship should be more punctually attended to than it was.

The Act he alluded to was obviously defective in this essential point, that it did not vest sufficient authority in Magistrates to carry its provisions into effect; for the sum of five shillings was the whole of the penalty to be levied on the offending person, one-third of which only was to go as a reward to the informer or prosecutor. He appealed, therefore, to the good sense of the House, whether the *third part of five shillings* was an adequate inducement to any man, to take upon himself the trouble of enforcing the law and carrying it into effect. Mr. Mainwaring therefore said, he meant to propose to amend the

Act

Act of the 29th of Charles II. by empowering magiſtrates to pay the proſecutor his expences.

He adverted to a manifeſt breach of the Sabbath, which, as it ſeemed to have the ſanction of the generality of the people, he ſhould forbear to declare his whole ſentiments upon, but would ſay, in general terms, that his opinion was againſt it—He meant the caſe of Journeymen Bakers, who, for the whole week, had not leſs than nineteen hours out of the twenty-four employed, and of courſe could have no time to devote to the ſervice of their Creator but Sunday. He thought, therefore, as it had been inſiſted upon that the people would ſuffer from their not baking on Sundays, that at leaſt a ſpecific portion of that day (ſuppoſe, ſaid he, from ten to one o'clock) ſhould be allotted to that purpoſe. He concluded, with moving for leave to bring in a Bill to explain and amend the Act of the 29th of Charles II.

Alderman Anderſon ſeconded the motion.

Mr. Joliffe ſpoke againſt it; he ſaid, he conceived the propoſition was abſurd, and would be nugatory. It was abſurd to propoſe that the Bakers ſhould be compelled not to work, as an exemption from a hardſhip, when they had it in their own power at preſent to relieve themſelves from that hardſhip, if they conſidered it to be one, ſince there was no law which compelled them to labour on that day. He imagined that the next ſtep would be to prohibit roaſting and boiling on Sundays, from which the next gradation would be eaſy enough, *viz.* to prohibit eating.

The motion was carried.

AUGMENTATION OF MILITIA.

The Chancellor of the Exchequer ſaid, in purſuance of the notice he had already given, he roſe to enter upon the general outline of the mode he ſhould propoſe for the purpoſe of increaſing the internal defence of the country, and the better to enable his Majeſty to employ his forces with vigour abroad. In what he had to propoſe, he ſhould follow, in one part implicitly, the mode adopted in the laſt war; he meant that of augmenting the Militia. He hardly imagined, but that, from circumſtances the moſt obvious, Gentlemen would agree in the neceſſity of ſomething like the plan he had to propoſe; and therefore, unleſs ſome objection was offered, he ſhould only open the ſubject generally, reſerving himſelf for explanation, if any ſhould become neceſſary from the oppoſition and arguments of others: This he would for the moment avoid, becauſe he did not wiſh to conſume time; and becauſe he was confident that Gentlemen would feel, that there never was a period in which vigour at home and abroad was more neceſſary, on the part of

Great

Great Britain, than the preſent. In the laſt war, the meaſure of augmenting the Militia was adopted, and proved a very ſucceſsful one; he had no reaſon to doubt that it would be equally ſucceſsful under the preſent circumſtances of the country. It was deemed neceſſary at that period to reſort to ſtrong means of internal defence; his deſign was to follow the plan then adopted; but he meant to propoſe that the militia ſhould be increaſed by volunteers; whether as independent companies, or by addition of men to the corps already formed, he had not yet made up his mind. That ſome bodies of cavalry ſhould be formed alſo, appeared to him an adviſeable meaſure; and as there were many of the gentlemen and yeomanry of the country who would be ready to engage in that ſervice, though at the ſame time they might not be willing to be removed from the counties in which they reſided, the beſt plan would be to have cavalry embodied on the principle of not being liable to be removed from the counties to which they belonged, except upon occaſions of great emergency. This he was perſuaded would be the beſt ſecurity this kingdom could have in caſe any ſudden exigency ſhould ariſe. He had no doubt, but that the general feeling of the Houſe, and of the country at large, bore evidence of the neceſſity of our being vigorous and active at the preſent moment, and that our ſafety depended altogether on vigilance, activity, and exertion. However improbable it was that the enemy ſhould attempt an invaſion, it was our duty to make that, which was the moſt improbable in the attempt ſtill the more difficult in the enterpriſe, and finally, he hoped, impoſſible in the execution. The adoption of theſe meaſures, he contended, would unite the utmoſt confidence and ſecurity at home, with the moſt vigorous and effective operations abroad. He concluded by moving "For leave to bring in a Bill to augment the Militia."

Mr. M. A. Taylor declared he did not mean in the ſmalleſt degree to object to the firſt part of the plan opened by the Right Hon. Gentleman, which was, that of augmenting the militia; The militia was certainly the conſtitutional internal defence of this kingdom, and its numbers ſhould be augmented if neceſſary; of that neceſſity, perhaps, he was not ſo clear as the miniſter ſeemed to be at this moment; but, however, he ſhould not oppoſe it, becauſe he ſaw no danger in the plan. But with regard to the other part of the miniſter's ſyſtem of what he called internal defence, by embodying cavalry all through the country, and raiſing another military force, he muſt give it his individual negative. He did not ſee that the circumſtances attending our preſent ſituation

juſtified any ſuch line of conduct. He was not one who felt ſuch great alarm from any threatened invaſion, as ſome Gentlemen ſeemed to feel, although he thought the war into which he had entered, ſufficiently pregnant with calamity, difficulty, and danger; it was unneceſſary for him to ſay more, as his opinions of the war were perfectly well known. It appeared to him, Mr. Taylor ſaid, to be highly injurious to agriculture, and the trade of this country, that ſo many of the moſt active in the claſs of labour ſhould be taken out of it, and unfitted for returning again by being for a length of time embodied in the militia. For theſe reaſons he ſhould certainly give the latter part of the plan juſt opened his individual negative.

Mr. Francis began with expreſſing his ſurpriſe at the different language held by miniſters at different periods. At the commencement of the laſt ſeſſion, it was held out to the Houſe and the Public, that in a very ſhort time the French would be driven to extremity; but now, on the contrary, after boaſting on the firſt day of the ſeſſion of our ſucceſſes in the laſt campaign, we were repreſented to be in ſuch an alarming and dangerous ſtate, that it was neceſſary to take extraordinary meaſures to protect us from that very enemy, of whoſe exertions we ſpoke with ſuch contempt ſome few months ſince, deſcribing France at that time, as a country capable only of ſome ſpaſmodic exertion. Let us then, ſeeing we are in danger (ſaid Mr. Francis) provide the beſt means we can for our ſafety. He wiſhed the miniſter to feel his ſituation properly, and to tell the Houſe candidly what he felt: But he was afraid that Gentlemen who were the moſt forward in promoting the war, had very gloomy proſpects. He was confirmed in this inference of danger, from that total abſence that he had remarked of any exulting or confident expreſſion from that ſide of the Houſe, to whoſe feelings the Right Hon. Gentleman had ſo ſeldom addreſſed himſelf in vain, and on the return of which he had preſumed ſo much on other occaſions. The fact was, the people, in general, were in a ſtate of deſpair with reſpect to the fate of the preſent war, and that was the only way in which he could account for the ſilence of thoſe Gentlemen who at the commencement of hoſtilities received the miniſter's propoſitions with animated applauſe. He was ſure the miniſter felt theſe obſervations to be true.

Mr. Bouverie ſaid, he would not have riſen, but in order to refute the inferences drawn by Mr. Francis, from the ſilence of thoſe, who, on ſimilar occaſions, had expreſſed applauſe and aſſurance. He was aſtoniſhed at what he had juſt heard; he declared he could not well conceive how the Hon. Gentleman could

could ſay any thing by way of conſtruing the ſilence of the Houſe into a diſapprobation of the motion, when he himſelf, and the other Hon. Gentleman, had riſen ſo immediately after the Chancellor of the Exchequer had ſat down, that none of the favourers of the motion had found an opportunity to ſay a word. In fact, the Right Hon. Gentleman (Mr. Pitt) had thought the preſent motion ſo much a matter of courſe, that he hardly conceived it neceſſary to addreſs himſelf either to the feeling or underſtanding of the Houſe; and had declared that he could not anticipate any objection, and ſhould reſerve himſelf till ſuch (if any) were made: Under theſe circumſtances, any exulting or approving echo would have been highly miſplaced indeed.

With regard to the poſſibility of an invaſion, Mr. Bouverie ſaid, nothing that had occurred warranted any ideas of great or impending danger: It muſt be recollected that ſuch an event, though allowed by the Chancellor of the Exchequer to be poſſible, was regarded at the ſame time as hopeleſs and deſperate in the extreme: To take precaution againſt improbability does not make it more probable; and to be prepared to repel a vain attempt, will at leaſt not render ſuch an attempt more politic. Being in a ſtate of preparation we leſſen the evil, and ſhould at the ſame time thereby make its being likely to happen leſs probable.

Mr. Francis in explanation begged it to be underſtood, that he did not object to the meaſure propoſed. On the contrary, all he ſaid tended to admit the neceſſity of it. He alluded chiefly to the neceſſity of our ſeeing our danger, and providing for it as well as we could, inſtead of attempting to conceal it from the Public. With regard to the manner in which the miniſter's propoſition had been received by his friends, he only meant that they did not receive what he brought forward ſo cheerfully as they were uſed to do.

Mr. Drake gave his cordial thanks to the Chancellor of the Exchequer for the propoſition that day brought forward. He ſaid he was convinced that the meaſure propoſed by the Right Hon. Gentleman was as much in perfect uniſon with the ſentiments of every friend of his country, as the opinions of the Gentleman who followed him were at eternal variance and diſcord with them.

Mr. Burdon ſaid, he thought the preſent war to be of a very peculiar nature, and that if ſimilar meaſures had been before adopted without any kind of alarm to the country, no ſuch alarm ſhould now be raiſed. The enemy with which we were engaged, might, by a momentary act of deſperate violence, make that attempt againſt which it was now propoſed

to provide. Deſperate and improbable as it was, to provide againſt it, neither would make it more certain in fact, or more ſucceſsful in the event, but would in all probability produce an effect directly contrary. To take a timely and wiſe precaution, was no proof of ſenſe of danger or alarm. If the invaſion ſhould take place, and fail, as it was moſt likely to do if attempted, a greater degree of evil will neceſſarily and unavoidably be felt in thoſe parts where the attempt is made than in any other: The better, therefore, we are prepared, the leſs will that evil be, as the enemy will be the ſooner defeated.

Mr. Burdon ſaid, it had laſt year been propoſed to raiſe volunteer companies in many parts of the kingdom, which he had then oppoſed as unneceſſary; but under the preſent circumſtances of affairs, he thought them highly uſeful.

Mr. M. A. Taylor wiſhed to know if the preſent Bill was meant to include any thing concerning the volunteer companies.

The Chancellor of the Exchequer ſaid it would be entirely confined to an augmentation of the privates of the militia.

Sir M. W. Ridley aſked whether the augmentation propoſed was to take place by ballot or volunteers?

The Chancellor of the Exchequer anſwered, not by ballot.

Mr. Cocks ſaid, he entirely approved of the meaſure propoſed by the Right Hon. Gentleman; and he returned him his ſincere thanks for the various meaſures he had adopted ſince the commencement of the war, which, ſo far as he underſtood them, appeared to him to merit the fulleſt approbation. The preſent certainly was a very ſerious war, but he avowed that he ſaw no reaſon for deſpondency. He ſaid he ſhould not have obtruded himſelf upon the Houſe, but that from the obſervation which had fallen from an Hon. Gentleman (Mr. Francis), that Hon. Gentleman ſeemed to conſider ſilence as a mark of diſapprobation.

Mr. Vanſittart informed the Houſe, that he had juſt returned from the aſſizes at Reading, and that the idea of raiſing corps of cavalry through the kingdom was much approved of in that neighbourhood, and that they had entered into a ſubſcription for that purpoſe, in the grand jury room, and between fourteen and fifteen hundred pounds had been raiſed. He, however, ſaw one inconvenience in raiſing the additional men as volunteers. If they were taken by ballot, the burden of their families would fall equally on all pariſhes in proportion; whereas, by taking them as volunteers, many might come from ſome pariſhes, which would then feel a heavy and partial burden in ſupporting their families.

Mr. Fox proceeded that he rose to rescue his Hon. Friend from unmerited reproach. He said he could not help making a few observations upon the subject as it then stood before the House. We were called upon at this moment to make exertions more extraordinary than were even conceived to be necessary during the most alarming period of the last war. He understood that at present the House was only called on to pass a Bill for the augmentation of the militia, as they did last war, but that other provisions were also to be made of a peculiar nature. The amount of this, in point of reasoning, was, that more was at present required for our own internal defence, than at the most distressing period of a very distressing war. With regard to the motion itself, he should trouble them with one remark alone, and that only for the purpose of introducing his observations on the remark of his Hon. Friend, viz. that the exertions proposed were of greater extent than at the period alluded to, viz. in the year 1779. He desired Gentlemen to attend to the difference of our situations at these two periods. On the former occasion, we stood alone against the united powers of Holland, France, and Spain, in Europe; we had been for the most part unsuccessful in our operations; our fleet was not only not superior to that of our enemies, but the fleet of France alone was very little inferior to our own, and then we were threatened with an invasion. At the present moment it had been triumphantly said that we had the assistance of all Europe against the French; and it had been so said with truth: It had been asserted also, and asserted with equal truth, that our fleet was superior to that of our enemy. It had also been confidently held out to public view, that we had been eminently successful in the last campaign. Did then the superior advantages we were now enjoying call upon us for exertions of greater extent; or was it the nature of success to render defence more necessary, or danger more imminent and alarming? Surely then the observation of his Hon. Friend was justifiable, and it must be confessed that there was an apparent contradiction and inconsistency in the words and actions of ministers. It was not very flattering to the pride of England, Mr. Fox said, that, with all the superiority of which we boasted at sea, the French were suffered to be entire masters of the Channel for several days since the commencement of this war. These things, he must repeat it, were extraordinary, however indisputable. At the time to which he alluded, the year 1779, there was a rumour of an invasion; and although it did not actually take place, he confessed he thought that those who apprehended it, calculated more rationally, from the probability of events in human affairs,

affairs, than thoſe who at the time deſpiſed, or affected to deſpiſe, that rumour. He was one that thought deſpiſing danger was by no means a proof of wiſdom; but upon a comparative ſtatement of our danger laſt war and our danger in the preſent, it would appear that the exertion made at this day was greatly diſproportioned to the comparative preſſure of the occaſion, for there was then real and ſubſtantial ground for apprehenſion of danger, and little or no ground of apprehenſion of danger at preſent. Mr. Fox ſaid, he thought it neceſſary to make theſe few obſervations, in order that Gentlemen might diſpoſe their minds a little to reflection, inſtead of running away with the torrent of popular clamour. Having ſaid this, he muſt beg it to be underſtood, that to the meaſure of augmenting the militia he made no oppoſition; with reſpect to the other parts of the plan, as opened by the miniſter, he had nothing to object to them at that moment; they would be fitter for diſcuſſion when they came before the Houſe in the ſhape of diſtinct propoſitions, and he ſhould reſerve his ſentiments till that opportunity.

Mr. Ryder ſaid, he thought the obſervations he had juſt heard were rather extraordinary, when they came from thoſe who had, ſince the commencement of the war, aſſerted repeatedly that the whole campaign was a diſaſtrous one: If they were right in that reſpect, he apprehended they could not conſiſtently at the preſent oppoſe any meaſure which had for its object our own ſafety. Gentlemen ſhould remember, that miniſters had always thought, and always aſſerted, that the exertions of the French, though extraordinary, prodigious, and moſt aſtoniſhing, were from their nature ſuch, that they could not continue for any long period; that the preſent Convention, or rather the governing faction in that aſſembly, had made moſt wonderful momentary exertions, much beyond indeed any thing that had hitherto been known in the hiſtory of the world; that, in thoſe momentary exertions, they were capable of doing immenſe miſchief to their enemies, and of propoſing plans, of whoſe ſucceſs they had no expectation, ſolely for the purpoſe of annoying the hoſtile powers, at any expence or any loſs to themſelves. Gentlemen ſhould conſider it was the intereſt of thoſe who led the French people, or rather who drove them, to keep up a degree of temporary enthuſiaſm, which often led to victory; but there were ſufficient reaſons for hoping that the French would not ultimately be ſucceſsful. After a ſevere repulſe, it was natural to conclude, from the genius, temper, and character of the French, that deſpair would force them into an oppoſite extreme; if the fact was ſo, and he thought it more than probable, what muſt

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be the refult of a ſyſtem pregnant with ſeeds of ſelf-deſtruction?

Mr. Fox roſe to explain; and ſaid, he ſhould wiſh the Hon. Gentleman another time, when he did him the honour of animadverting on any of his arguments, would quote him fairly, and not draw his own concluſions, and make them to be the concluſions of his opponent. In the preſent inſtance, the Hon. Gentleman had very ſophiſtically foiſted into his (Mr. Fox's) aſſertion reſpecting an offenſive war, the words, of courſe, a defenſive: This conſequence he never drew, and was amazed any man could derive ſuch a concluſion from the premiſes he had endeavoured to eſtabliſh. He had miſrepreſented the arguments in another way; he had ingeniouſly choſen to make him (Mr. Fox) appear as if contradicting himſelf at different times with regard to his ſentiments on the war, and our danger; not at all perceiving that his preſent arguments were rather *ad homines* to the miniſter's than his own opinions, nor recollecting that he had been equally accuſed of under-rating the danger to be apprehended likely from an invaſion, as of over-rating the ill ſucceſs to accrue from our operations on the continent.

Mr. Grey ſaid, if his Right Hon. Friend had not taken notice of the fallacy of the Right Hon. Gentleman's reaſoning, he ſhould have done it. At preſent, he only wiſhed to call to the recollection of the Houſe, that they had invariably, from the commencement of the war, been entertained with the ſame aſſertions of momentary exertion; but theſe momentary exertions had been continued during a whole campaign, and continued with ſuch ſucceſs, that miniſters, if not in words, at leaſt by their actions, ſeemed to declare we were in a worſe condition, and had more to apprehend, than at the commencement of the war; for what other concluſion could be drawn from their conduct on the preſent occaſion, but that they thought the country ſtood in need of a larger ſcale of defence than had been ſtated to be neceſſary at the commencement of hoſtilities, and of courſe that the country was in a worſe ſtate and more defenceleſs condition than when the war began.

The motion was then put and carried.

TREATIES.

Mr. Whitbread, jun. roſe, in conſequence of a notice he had given, to deſire the attention of the Houſe to the different Treaties which had been entered into between his Majeſty and the different powers of Europe ſince the commencement of the preſent war, and which had been laid before the Houſe.

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He ſaid it was not his intention to diſpute that part of the prerogative of the Crown, by which his Majeſty was entitled to contract alliances with foreign powers; he meant only to enforce a principle which was well known in the conſtitution of this country, and to aſſert a right which was incontrovertibly inherent in that Houſe, namely, to take ſuch alliances into conſideration; and, if they found it neceſſary for the ſafety of the country, or for the general welfare of the people, to carry up to the Throne an Addreſs expreſſive of their diſapprobation of ſuch alliances, and their advice to diſcontinue them. It was becauſe he felt for the prerogative of the Crown, and becauſe he felt the neceſſity of uſing the power of the Commons upon theſe great conſtitutional points, that he came forward at this moment to ſubmit to the Houſe the motion with which he intended to conclude, together with the reaſons which induced him at this time to make it.

In the diſcuſſion of the preſent queſtion, Mr. Whitbread ſaid, he would avoid inquiring into the grounds of the preſent war, or the reaſons which induced the country to engage in it; for though he ſtill remained in the ſame opinion, which he had expreſſed in the laſt ſeſſion of Parliament, that the war was unjuſt, unneceſſary, and deſtructive, yet, for the ſake of the argument on the preſent occaſion, he would admit it to be, what miniſters had been pleaſed to term it, *juſt* and *neceſſary*, and a war of *unprovoked aggreſſion* on the part of France. Neither would he dwell on thoſe topics which were ſo artfully held forth to inflame the public mind, to incite the mind of the people to animoſity againſt the French nation, and draw from them their conſent to the war; but would content himſelf with barely reminding the Houſe, that the ſame opprobrious epithets, the ſame virulent invectives, as had been laviſhed on the French, had, upon former occaſions, been beſtowed on ſome of the greateſt and beſt men that ever were engaged in an illuſtrious ſtruggle for liberty. That great and good man the Prince of Orange, whoſe virtues no perſon would deny to have been great and exemplary, in the Proclamation againſt him by Philip II. was loaded with all the opprobrious epithets that enraged tyranny could invent. The ſame line of practice had alſo, he underſtood, been adopted againſt the Americans in the courſe of the American war. All the epithets of immorality, irreligion, deiſm, atheiſm, oppreſſion, injuſtice, cruelty, aſſaſſination, confiſcation, plunder, confuſion, anarchy, deſpotiſm, tyranny; all theſe words had been reiterated againſt the Americans. It was thought adviſable, by the advocates for that war, to ſignalize and libel the whole body of the people. That artifice had a temporary effect; but the Houſe and the

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Public knew too well in what it ended; and therefore, when theſe epithets were employed indiſcriminately againſt the French people, he muſt ſay they were libelled, groſsly and ſcandalouſly calumniated; and all for what? To prove what no rational ſet of Beings ever doubted, the exiſtence of a God. But it was not for that purpoſe that all theſe epithets were uſed. The Chriſtian religion was made a cloak to hide the intentions of certain perſons who hated any thing like liberty amongſt mankind; and they had the words Chriſtian Religion perpetually in their mouths, while in their hearts they deteſted its pureſt principles; and by their actions violated its beſt precept—"Do unto others what you would others ſhould do unto you."

Whatever might have been the ground of war on our part, and however we might ſupport our charge of aggreſſion from the French, it could not be ſaid, on the part of Auſtria and Pruſſia, that the war was an aggreſſion on the part of France: The treaty of Pilnitz muſt be an incontrovertible argument againſt any ſuch aſſertion; yet we had entered into a confederacy with the framers of that treaty, and bound ourſelves to go as far as they are pleaſed to lead us. In the affairs of private life, a man may be induced to commit a murder to prevent ſome other violation of the laws of civilized ſociety; but is any man prepared to ſay, that he is ready to go as far as the ſanguinary diſpoſition of the murderer might be willing to lead him? The motives of Auſtria and Pruſſia were inordinate ambition, cruelty, and rapacity. We had ſeen the effect of them. We had heard the ſanguinary principles that were maintained in the purſuance of them, by which theſe deſpots betrayed their intention to all Europe too ſoon to be uſeful to the infamous cauſe which gave it birth. We had all afterwards heard of, and read the never-to-be-forgotten or forgiven Manifeſto of the Duke of Brunſwick; a publication which no good man could read without horror. Then followed the fruits of this abominable ſyſtem in the infamous diviſion of Poland. And notwithſtanding we affected to lament the partition of Poland, and various other inſtances of unbounded ambition and unprincipled conduct in theſe courts, Great Britain had entered into alliance with theſe very powers! This was alarming to a people who had any eſteem for the principles of juſtice! For, notwithſtanding all our profeſſions of moderation, with ſuch parties it is notorious to Europe we were now engaged! We had another ally of equal honour for political integrity, the Empreſs of Ruſſia, a Princeſs who had proved from her conduct, ſince the commencement of the war, that her only aim was to keep the whole South of Europe in confuſion, the better to enable herſelf

to purſue her ambitious ſchemes. Let Gentlemen then conſider what is the common object of the Combined Powers now at war with France. Have they publiſhed any thing as to the object they had in view in the preſent war? Has any one of them defined his object? Or have they not in turn regularly contradicted each other, and as often contradicted themſelves? Our object, indeed, as ſtated in the King's manifeſto, was declared to be indemnity and ſecurity. Even theſe words were of ſuch extent, as to be capable, under certain circumſtances, of bearing any interpretation; for no man could ſay what they might be ſaid to mean when applied againſt a conquered nation.

But in what ſituation were we ourſelves in conſequence of the alliance we had entered into? If we adhered to the aſſertion, that we would upon no condition whatever treat with France under a republican form of government; at what period did we expect to be able to treat with the French? If, on the other hand, we might be willing, on our part, to treat with the French as a Republic, provided the preſent rulers, and the preſent ſanguinary ſyſtem, were no more known or heard of, could we conceive that Auſtria and Pruſſia, who began the war, would agree to any terms with a Republic? would they, who have made a common cauſe of cruſhing the form of government in France in the year 1789, ever be brought now to agree even to that form of government? And how could we think of continuing in the combination, againſt ſuch a form of government as that eſtabliſhed in France in the year 1789, if the French ſhould ever adopt it? For that conſtitution we had already declared our partiality; we had pledged ourſelves, by the conduct of our Commanders at Toulon, to accept the conſtitution of 1789; and if any perſon would conteſt that point, he was ready to demonſtrate it from the Declarations of Lord Hood and General O'Hara to the Toulonese. Lord Hood in his Proclamation expreſsly declares, that he takes Toulon in truſt for Louis the XVIIth, King of the French, not King of France and Navarre; and in ſtrict conformity with the terms propoſed by the people of Toulon, who had expreſsly ſtipulated for the reſtoration of the conſtitution of 1789, as accepted by their late King; and this agreement General O'Hara, by the directions of the King his maſter, recogniſes and aſſents to. By theſe negotiations moſt indiſputably we were pledged to the whole people of France, as well as to the people of Toulon, to maintain and reſtore the conſtitution of 1789, and to conclude a peace with that country, if they ſhould make an offer of the acceptance of that conſtitution, as the condition and foundation for the treaty.

Auſtria,

Auſtria, however, it was obvious, would not aſſent to the conſtitution of 1789; ſince General Wurmſer, in one of his Declarations, calls it a *deteſted* conſtitution; and the Prince of Saxe Cobourg, after having in his Manifeſto promiſed to reſtore that conſtitution, in ſo ſhort a period as four days afterwards recants that declaration, and poſitively ſays, it is impoſſible it can be reſtored conſiſtently with the ſecurity of Europe. In ſhort, there was no reliance to be placed on any one promiſe of theſe royal dealers in human fleſh. Elſe why did the King of Pruſſia not remit that execrable, blood-thirſty, malevolent, and furious cruelty, he had exerciſed, and now continues to exerciſe, on an individual? (La Fayette.) Blood-thirſty, malevolent, and furious cruelty it was, that had never been ſurpaſſed in infamy by any ferocious tyrant of ancient Rome, or from the days of Roman tyranny, down to the tyrants of the preſent day. Such was the treatment which the defender of the conſtitution of 1789 was to receive from the King of Pruſſia! And ſuch was one of the allies of Great Britain! Great Britain in fact was in alliance with Powers and Potentates who ſet political faith at defiance! With the plunderers of Poland had we agreed to carry on a war for the deſtruction of France; and he would venture to declare it as his firm opinion, that if the views of this deteſtable combination had been ſucceſsful in the firſt campaign againſt the French, the liberty of Europe would have been at its laſt gaſp, and would ere this have expired! With ſuch Powers were we leagued!

In the common affairs of human life, Mr. Whitbread ſaid, theſe actions would have been deemed ſo infamous, that mankind in general would have agreed that they ought to be reſiſted, or there muſt inevitably be an end to all ſocial intercourſe; but the conduct of Sovereigns was not, it ſeemed to be judged of by the ſame rules of juſtice. We had made a common cauſe againſt France; and upon the ſame principles we might make a common cauſe againſt Poland; and a common cauſe might be afterwards made againſt us. A Right Hon. Gentleman (Mr. Burke), whom he was ſorry not to ſee in his place, had, when a Right Hon. Friend of his (Mr. Fox) mentioned Poland, declared he would, if it were in his power, march to her aſſiſtance, and reſcue her from the violence of her raviſher; yet that Right Hon. Gentleman could applaud the very ſame infamous raviſhers when they turned their arms againſt France. It was now called a common cauſe for juſtice, for humanity, for law, for order, for the Chriſtian religion; whereas, in point of truth, it was a common cauſe againſt them all; and theſe fine expreſſions were made uſe of,

as a cover for the moſt infamous deſigns, to delude the thoughtleſs into a combination with the wicked; to turn honeſt zeal for a good cauſe into blind fury for a bad one, and reſembled the celebrated artifice of Saint Bernard, who ſays—"But what an occaſion is now offered for the pardon of your ſins?—truly it is an invention worthy of the divine goodneſs! None are excluded! murderers—thieves—adulterers—all are called. Turn then your ſwords no more againſt one another—the common enemy preſents his breaſt to you; confeſs your ſins; take up the croſs, and march againſt him." This, indeed, was a common cauſe too diſgraceful for Great Britain to be concerned in; for freedom knew of no common cauſe to aſſiſt in the eſtabliſhment of ſlavery. The freedom of England muſt not be employed to aſſiſt plunder, rapine, and murder.

The treaty with the King of Sardinia, by which we were bound not to lay down our arms without the reſtitution of Savoy, had been much noticed and moſt deſervedly ſo, for it was a very ſingular and a very extraordinary treaty, conſidered in every poſſible point of view. Let the Houſe recollect, that the irruption into Savoy was made long before the Britiſh nation engaged in the war. The Sardinian Ambaſſador applied to the Genoeſe to interfere on the ſpur of the occaſion; Lord Robert Fitzgerald, the Britiſh Envoy there at that time (in Oct. 1792), deſired the Genoeſe to preſerve a ſtrict neutrality. He was ſurpriſed, then, how Gentlemen could pretend to argue at this moment, that the reſtitution of Savoy was neceſſary to the ſecurity of Great Britain.

The preſent war had been termed a war for the preſervation of civil ſociety: So far was this from being true, that it was notorious, we had in many inſtances acted in a manner that tended to break the bonds of ſociety aſunder.

It was not leſs well known, that many powers in Europe would have obſerved the ſtricteſt neutrality, if they had not been compelled to join the league in this moral, religious war. It was an extraordinary circumſtance, he ſaid, to reflect upon, that a league of Auſtria, Pruſſia, Sardinia, Spain, Holland, Ruſſia, and Great Britain, had ſubſiſted for a conſiderable time againſt France alone, and yet at this very moment every power in the whole combination was in a worſe relative ſtate with regard to France, than at the commencement of the war. Even Great Britain, the moſt abundant of them all in reſources, had that very day in that Houſe been obliged to make more extraordinary proviſion for its own internal ſafety, than at the commencement of the war. Of all this, what was the natural inference and concluſion? but that Auſtria and Pruſſia, and

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the reſt of the league, are more exhauſted than we are; and that a war with *an armed nation*, is but a war which in the nature of things no combination upon earth can render ſucceſsful.

A Right Hon. Member (Mr. Dundas), whom he did not ſee in his place, Mr. Whitbread ſaid, had ſtated ſome time ſince, that it was the duty of his Majeſty's miniſters to call down all the powers of Europe on the French. That duty his Majeſty's miniſters had endeavoured to fulfil, and to enforce it at the point of the bayonet, to the diſgrace of the nation, notwithſtanding their reprobation of the ſame conduct on the part of the French.

Suppoſing however, for the ſake of argument, that we were ſucceſsful in cruſhing the French altogether, what proſpect had this country afterwards of peace? Could we ſuppoſe, if ſucceſs had attended the combination againſt France in the firſt campaign, that we ſhould not by this time have had a quarrel with ſome of our allies? Could we ſuppoſe that ſuch ſanguinary tyrants would, on their ſucceſs againſt the French, forget at once all their principles of deſpotiſm; and that the conſtitution of this country would never have been in danger after they had impoſed a tyranny on the French? Our interference in the affair certainly came at a very unſeaſonable period. Would to God his Majeſty had been adviſed to attend to the ſituation of Louis XVIth of France, at the time the preſſing requiſition was made by that Monarch! He really believed that affairs were then ſo ſituated, that the lives of the unfortunate King and Queen of the French might have been ſaved, and Europe have been at peace at this hour: In every view that he could poſſibly take of our ſituation at preſent, he ſaw much danger from the combination in which we were now engaged: The only thing remaining for him would be to ſuggeſt to the Houſe for the preſent, what appeared to him to be the beſt advice that Houſe could give to his Majeſty. This, in ſubſtance, was to extricate him as ſoon as poſſible from the whole of the combination in the preſent war. This was not at all difficult; there were precedents for ſuch a meaſure, and the neceſſity of the thing would juſtify itſelf in the abſence of all precedent: Few of the powers would have reaſon to complain, and leaſt of all, the Empreſs of Ruſſia, for ſhe had not made good any of her engagements or promiſes in the league. With regard to the hackneyed queſtion, Who we were to treat with in France? there never appeared to him the ſmalleſt difficulty upon that ſubject, becauſe all negotiations from their nature were ſet on foot for the purpoſe of treating with thoſe who had the power to negotiate; and if a treaty

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was carried on and concluded, thoſe who ſucceeded in power would of courſe be obliged from neceſſity to obſerve it: This was the caſe every day, and muſt in the nature of events be ſo. Whatever ſhould be the fate of his motion, Mr. Whitbread declared, he ſhould reſt ſatisfied with the conſciouſneſs of having done his duty; and if he ſhould be unſucceſsful, he truſted that one of his Hon. Friends would make a ſpecific motion for a peace with France. He concluded with obſerving, that it was very generally believed, the King of Pruſſia had demanded of this country a ſubſidy of ſeven or eight hundred thouſand pounds, as the price of continuing the war; and then moved,

"That an humble Addreſs be preſented to his Majeſty, to repreſent to his Majeſty, that his faithful Commons, having taken into their ſerious conſideration the various engagements which have, by his Majeſty's command, been laid before this Houſe, cannot forbear to expreſs their deep concern that his Majeſty ſhould have been adviſed to enter into engagements, the terms of which appear to this Houſe to be wholly incompatible with the declarations repeatedly made to this Houſe from the Throne, relative to the profeſſed objects of the preſent unfortunate war.

"To repreſent to his Majeſty the affliction and alarm of his faithful Commons, that his Majeſty ſhould have been adviſed to make a "common cauſe" with powers whoſe objects are unavowed and undefined, but from whoſe conduct his faithful Commons have too much ground to dread that they [illegible] on war for the purpoſe of dictating in the internal affairs of other countries; views which have been repeatedly and ſolemnly diſavowed by his Majeſty and his miniſters, and which are utterly abhorrent from thoſe principles upon which alone a free people can with honour engage in war,

"To repreſent to his Majeſty, that if the preſent war had been, what his Majeſty's Meſſage in the laſt Seſſion of Parliament ſtated it to be, a war of aggreſſion on the part of France, and of defence on the part of Great Britain, that, by a treaty previouſly in exiſtence between his Majeſty and the King of Pruſſia, the co-operation and aſſiſtance of that Power were enſured to this country,

"That it does not appear to this Houſe, that the ſuccours ſtipulated by the Defenſive Treaty of 1788, have been required by his Majeſty; but that a Convention has been entered into, the ſtipulations of which have no other tendency than the involving us in ſchemes as foreign to the true intereſt, as they are repugnant to the natural feelings of Engliſhmen; and of impoſing a reſtraint upon his Majeſty's known diſpoſition, to

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avail himſelf of any circumſtances which might otherwiſe enable him, conſiſtently with the honour of his Crown, and the welfare and ſecurity of the country, to relieve his people from the preſent burdenſome and calamitous war.

"To repreſent to his Majeſty, that the irruption of the French into Savoy, and their poſſeſſion of that part of the dominions of the King of Sardinia, did not appear to his Majeſty ſo far to endanger the balance of power in Europe, as to induce his Majeſty on that account to commence hoſtilities againſt France. That his faithful Commons do therefore expreſs their diſapprobation of that part of the treaty recently concluded between his Majeſty and the King of Sardinia, by which his Majeſty is bound not to lay down his arms until the reſtitution of Savoy ſhall have been accompliſhed; a ſpecies of engagement which it can at no time (excepting in caſes of the greateſt emergency) be either prudent or proper to contract, and much leſs for an object which was not deemed in his Majeſty's wiſdom to be ſo connected with the intereſts of this country, as to occaſion a declaration of war, and which cannot now be conſidered by his faithful Commons as of ſufficient importance to be made the indiſpenſable condition of peace.

"To repreſent to his Majeſty, that it appears to his faithful Commons to be the general tendency of theſe engagements to involve us in connexions of undefined extent, for objects which we diſapprove and have diſavowed, and this with powers on whoſe principles of equity and moderation we are inſtructed by experience to have no reliance, and whoſe complete ſucceſs may, in our opinion, prove fatal to the liberties of Europe.

"To repreſent to his Majeſty, that, having thus expreſſed our ſentiments upon the engagements which his Majeſty has been adviſed to contract, we feel it our bounden duty moſt humbly and earneſtly to implore his Majeſty to conſider of ſuch meaſures as to his royal wiſdom ſhall ſeem adapted (conſiſtently with that national faith which in common with his Majeſty we deſire to preſerve religiouſly inviolate) to extricate himſelf from engagements which oppoſe ſuch difficulties to his Majeſty's concluding a ſeparate peace, whenever the intereſts of his people may render ſuch a meaſure adviſeable, and which certainly countenance the opinion that his Majeſty is acting in concert with other powers for the unjuſtifiable purpoſe of compelling the people of France to ſubmit to a form of government not approved by that nation."

Mr. Jenkinſon ſaid, that after the moſt attentive conſideration he had been enabled to give to the ſpeech of the Hon. Gentleman,

Gentleman, he was at a loſs to diſcover a ſingle plauſible objection to any of the treaties alluded to, except that with the King of Sardinia. He could not gueſs the grounds of the motion, except as far as it related to that treaty. Much of what had been advanced by the Honourable Gentleman was clearly irrelevant to the ſubject, although many of the topics touched upon had been confeſſedly important in their nature. The Hon. Gentleman had not confined himſelf to the conſideration of the motion with which he had concluded, but had thought proper to enter into the inveſtigatian of the conduct of Great Britain towards neutral nations, and of the general circumſtances which had attended the commencement and the progreſs of the war. Through that wide field of diſquiſition it was no part of his intention to follow the Honourable Gentleman, but ſtrictly to confine himſelf to the queſtion before the Houſe. Mr. Jenkinſon declared himſelf perfectly prepared to ſhew, that hoſtilities with France were juſtifiable in their commencement, and neceſſary to be continued, were there any occaſion for ſuch an argument. One poſition, however, had been laid down by the Honourable Gentleman, on the baſis of which ſome objections had been raiſed to the treaties in queſtion; an argument ſo fallacious, that he conceived himſelf bound to expoſe it; and by ſo doing, all the arguments which were founded upon it would of courſe fall to the ground.

The war in which the Combined Powers were engaged, had been denominated a War of Aggreſſion on the part of Auſtria and Pruſſia againſt France, on account of the ſtipulations contained in the Convention of Pilnitz between the former ſtates. So far was this from being the caſe, the Convention of Pilnitz had no views of ambition whatever. It was generally held as a principle, that after an act, no blame was imputable if the cauſes of that act were removed; let it therefore be remembered, that, ſubſequent to the treaty at Pilnitz, the Emperor had declared, that as the French King had accepted the conſtitution propoſed by the Aſſembly, he would withdraw his forces; and this declaration he confirmed. In conformity to certain principles laid down by high authority (Mr. Fox) he would contend, that an injury ſuſtained, unleſs accompanied with a poſitive refuſal of ſatisfaction and recompence, was no proper or juſtifiable cauſe of hoſtility; and, examining the treaty of Pilnitz according to that criterion, he had no heſitation in ſaying that France was not juſtified in going to war on account of that meaſure. The object of the treaty at Pilnitz was to free the late unfortunate King, by force of arms, from the bondage in which he ſeemed to be held previous to his

acceptance of the conſtitution of 1789, and not to aggrandize the contracting parties at the expence of an independent country. When Louis the XVIth had accepted the conſtitution, and had notified ſuch his acceptance to the different Powers of Europe, the Court of Vienna ſhewed every diſpoſition to retreat from the ſtipulations at Pilnitz, received an ambaſſador from France, and intimated to the Electors of Mentz and Treves, that if they permitted the levies of emigrants within their territories, it muſt be at their own individual riſque, independent of any aſſiſtance or ſupport from the Germanic Body. All theſe circumſtances tended ſtrongly to demonſtrate the peaceable intentions of Auſtria; and the ſureſt proof of their deſire of neutrality might be found in the conduct of the then French miniſter, who had relinquiſhed his ſituation, as he ſaw his country about to be precipitated into a war from the violence of the Jacobin faction. The caſe of Pruſſia, Mr. Jenkinſon ſaid, was in all reſpects ſimilar to that of Auſtria. Having thus diſcuſſed the preliminary point of aggreſſion, he would next proceed to examine the treaties with thoſe two Powers, and that with the King of Sardinia, in their order. It appeared to him requiſite, in the firſt place, to perſiſt in the opinion formerly ſtated, that, when a country was unfortunately involved in a war, it became indiſpenſably neceſſary to form as ſtrong and as numerous alliances as poſſible, in order to diſtreſs the enemy, and to protect ourſelves.

To ſhew the policy and expediency of the treaties under review, it would be requiſite for him merely to draw the attention of the Houſe to the two principal articles which they contained. By one of theſe articles, we had contracted with the Emperor and King of Pruſſia to make our cauſe during the continuance of the war the ſame with that of the Court of Berlin. This article, apparently at leaſt, preſented the moſt efficacious means of proſecuting the conteſt; and as it was only meant to remain in force during the continuance of the war, it had at the ſame time in view the ſecuring to us that indemnity and ſafety which was avowedly our greateſt object. We had pledged ourſelves by another article not to lay down our arms till France had reſtored to the Allies all the poſſeſſions which ſhe had wreſted or might wreſt from them in the courſe of the conteſt. In this ſtipulation there was nothing unreaſonable or impolitic; for, conſidering the caſe as it ſtood between Pruſſia and Great Britain, there was no material diſadvantage which could accrue to either party, as it was not probable that France would be able to keep a permanent hold of the poſſeſſions of either the one or the other; and though the riſque as to the Emperor was indubitably greater, yet the ſecu-

rity of his dominions in the Low Countries, which were moſt expoſed to attack, was as eſſential an object to Great Britain and the United Provinces, as to the Emperor himſelf. Holland could never enjoy repoſe while the Auſtrian Netherlands were in the power of France: And if our great rival in trade ſhould obtain the port of Oſtend, the extenſive and lucrative commerce we were accuſtomed to carry on with that town would be entirely annihilated. Conſidering, therefore, the whole of theſe tranſactions as mere matters of bargain and contract, they were highly beneficial to the country.

With regard to the treaty with Sardinia, it might be viewed merely through the medium of policy; but notwithſtanding what had been alledged againſt it, he would maintain, that the expenditure of 200,000l. a-year was a wiſe and politic meaſure on our part. If France conceived that hoſtilities would be obſtinately enforced in Savoy, that circumſtance alone would oblige her to retain a powerful army in Savoy. The exertions of the enemy againſt the Auſtrians and Pruſſians would thus be conſiderably weakened, and Savoy be ultimately preſerved to Sardinia. The ſubſidy therefore given to the King of Sardinia was not, in his opinion, more than equal to the value of the purchaſe. Should France offer to Sardinia favourable terms of pacification, it was our intereſt to prevent thoſe terms being accepted, by holding out terms ſtill more advantageous to that country, on condition of their continuing the conteſt. The Houſe ſhould recollect, that the King was ſubſidized, not as a powerful Prince, having great reſources in himſelf, but as a check to France in their views on Italy, and hence rendered of infinite importance in ſuch a conteſt as the preſent; even ſuppoſing the King of Sardinia to be beaten in every battle, it would ſtill be in his power, by creating a diverſion, to weaken the general power of the enemy.

It had been hitherto conſidered as the eſſential duty and intereſt of this country to guard againſt an extenſion of territory by France; he would aſk, was that ſyſtem to be totally abandoned? or, without entering into the detail or condemnation of French principles at the preſent, whether ſhe is leſs dangerous in the exceſs of power and dominion as at preſent circumſtanced, than ſhe would have been formerly? Should that nation be permitted to extend her conqueſts, when, in union with her former ambition, ſhe was actuated by a ſet of immoral and irreligious principles, which rendered her, in his opinion, doubly formidable?

The conduct of Pruſſia towards Poland, Mr. Jenkinſon obſerved, was not the preſent object of inquiry; but all the obſervations on that head might be anſwered by putting the common

common, though concluſive, caſe, that your next-door neighbour's houſe was on fire, and one at a mile's diſtance, and then aſking which of theſe a regard to our own intereſt required us to extinguiſh firſt. Let him, therefore, be ever ſo much diſpoſed to condemn the immorality and the injuſtice of the partition of Poland, he did not ſee that the juſtice or neceſſity of the war were at all affected by that tranſaction.

Recurring once more to Savoy, he begged leave to obſerve, that the refuſal of France to reſtore that country to Sardinia, was ever deemed a ſufficient cauſe of hoſtility; and we therefore were called upon to inſiſt upon its reſtitution, as one of the preliminaries of peace.

Mr. M. A. Taylor aſked, Whether the queſtion propoſed by his Honourable Friend, relative to the King of Pruſſia's demand for a ſubſidy, was true? He ſaid he ſhould ſupport the preſent motion, as he had always objected to treaties with Ruſſia and Pruſſia, becauſe the abſolute government of thoſe countries being directly contrary to the limited monarchy of this, their objects muſt neceſſarily be diſtinct. He was ſorry that he could not ſpeak of Pruſſia as he wiſhed; but thus far he would venture to ſay, that an alliance with either of thoſe monarchs, who had rendered themſelves odious to mankind by their fraud and plunder of Poland, was a diſgrace to us. Their actions, it had been ſaid, not being immediately appoſite to this country, could not affect us. He declared he would maintain the converſe of this propoſition, and aſſert that they did affect us, and very materially, if we were to be conſidered as a free nation. France had undoubtedly a right to chuſe her own form of government, and make ſuch internal regulations as ſeemed convenient and juſt, without any interruption or reſtraint from foreign powers. He believed, with the Hon. Gentleman who ſpoke laſt, that we were not bound hand and foot to go as far as our allies ſhould with us; but ſtill he ſhould affirm, that Pruſſia was the aggreſſor, that the Monarch of Berlin was deſirous of coming in for a ſlice of France, and had probably preconcerted with that *excellent and pious* woman, the Empreſs of Ruſſia, for that purpoſe.

Mr. Taylor lamented that he was not preſent when the treaty with Sardinia had been diſcuſſed, but at that time he was engaged with his conſtituents in the country, or otherwiſe, *though he could not tell what had paſſed in that debate*, he ſhould have been in the minority. *(A laugh.)* He explained himſelf, becauſe he conceived the treaty with Sardinia to be an obligation for the proſecution of the war, which he had always diſapproved of. He wiſhed that the Gentlemen that day aſſembled, who were poſſeſſed of landed property, would deli-

berately examine the poor rates, and reflect upon the number of reputable families that were daily reduced to an application for relief from their reſpective pariſhes, which misfortunes were entirely occaſioned by the preſſure of the war. Should ſuch an examination fairly take place, many of them, he had no doubt, would follow his opinion. For his own part, he had no great landed eſtates *(a laugh)*, and he was glad that he had none *(a laugh ſtill louder)*; but the farmers in his neighbourhood had informed him, that unleſs their grievances were redreſſed, unleſs the poor rates were reduced, and the taxes leſs oppreſſive, they ſhould be obliged to quit their farms. He knew that the preſent war was no leſs fatal in its conſequences than that with America, and he feared that it would laſt as long.

Sir Gregory Page Turner roſe with his characteriſtic zeal, and contradicted the Honourable Gentleman in his ſtatement of the diſtreſſed condition of the lower order of the people. Sir Gregory entered into a panegyric upon ſome expreſſions of Mr. Burke, in a former debate, whoſe name he declared ought to be written in that Houſe in letters of gold. He ſaid he had not opened his mouth before this ſeſſion, though he had conſtantly ſupported the war in the ſtrongeſt manner with a ſilent vote. He was both willing and ready to ſubmit to any taxation the miniſter ſhould be pleaſed to impoſe, and for that purpoſe would, in concert with the other Gentlemen of that Houſe, deliver in an exact and regular detail of his property. He did not mean a particular compliment to the Chancellor of the Exchequer, but he certainly had a high opinion of his integrity, which he extolled in terms of ſtrong eulogium. What was equalization?—The French had talked of equalization; but in truth he ſuppoſed they wanted to make an equal partition of property. Every body knew that he had not much landed property, but what he had he ſhould not like to ſhare with thoſe fellows. He was an inſignificant Member, as the Houſe ſuppoſed him to be, and could not ſay much to the purpoſe; but he had two or three good coats, which he ſuppoſed the French alſo would like to take, and leave him only one. He ſuppoſed too, that men who had no money, would ſcramble for all they could get; and thoſe that had but ten pounds might want a hundred, or perhaps two hundred, he could not tell. [*During the whole of this* ſpeech *the Houſe was convulſed with laughter, and the* Speaker *was obliged to force an air of gravity to command order.*] The Honourable Baronet wondered why the Gentlemen enjoyed his ſpeech ſo much, ſince he did not pretend to humour. Theſe were, he ſaid, his real ſentiments which are—which are—which are—*(another fit of laughter.)*

ter.). The war.—Much had been ſaid of the war; it is the war of Europe. It is—a war!!! We had engaged in this war not for attack, but defence, to ſecure our property, our lives, and honours.

The queſtion was then about to be put, when

Mr. Fox ſaid, that he thought himſelf bound, in the firſt place, to return his moſt cordial thanks to his Honourable Friend, for the able and eloquent manner in which he had brought forward the motion; and, next, to give it every degree of ſupport and countenance which it was in his power to beſtow. An anſwer to a very ſmall part of his Hon. Friend's ſpeech had been attempted to be given by an Honourable Gentleman (Mr. Jenkinſon); but thoſe arguments, which had been deduced from the general diſtreſs of the country at the end of what had been moſt falſely called the tenth year of unexampled proſperity, from the conſideration of the enormous and increaſing burdens under which we groaned, had been paſſed over in ſilence, and that for a reaſon ſufficiently obvious, *viz.* becauſe they were irrefragable and unanſwerable. Independent of any remark with regard to the origin of the war, on which ſo much had already been ſaid, it ſtill remained for them to examine into the manner in which the war was conducted, and into the views of thoſe with whom we carried it on. It was impoſſible, by any ſophiſtry, to evade the concluſion, that Auſtria and Pruſſia were the fomenters of this conteſt, by the ſtipulations of the treaty of Pilnitz; a treaty which had for its object an unwarrantable and impious purpoſe, namely, the deſtruction of an independent ſtate, by lawleſs and inſatiable ambition. When this was conſidered, every principle of reaſon and morality loudly called upon us to balance the advantages we might reap from ſuch an alliance, with the ſhame and diſgrace attendant upon any engagement with thoſe with whom we had connected ourſelves. It had been ſaid in reſpect to Poland, that when our neighbour's houſe was on fire, it would be ridiculous to run to extinguiſh a fire ſome miles diſtant. Mr. Fox begged leave to continue the allegory, and aſk whether it would be commendable in a man, when he found his neighbour's houſe on fire, to call in a band of plunderers and robbers to his aſſiſtance. Rather than make a common cauſe with them, either by pumping the engine, or even handing them a bucket, Mr. Fox ſaid he would hazard every danger to which he might be expoſed by the conflagration.

According to the treaties exiſting between this country and Pruſſia, we were bound only to aſſiſt his Pruſſian Majeſty in a defenſive war. He was aware, however, of the quibble that might be reſorted to in order to juſtify the meaſures we had taken,

taken, though in reality our aſſiſtance was given to ſupport an offenſive rather than a defenſive ally. He alluded to the treaty between the King of Pruſſia and the Emperor, which was entered into long after the negotiation with England, whereby the King of Pruſſia engaged with Auſtria in the provocation of France, and then claimed our aſſiſtance to defend her from the enemy ſhe had raiſed. There was a time when Poland was conſidered of the utmoſt importance, though that conſideration no longer exiſted. There was a time when the ſituation of Poland, her commerce with this country, and her alliance, were all valued; but circumſtances had changed our opinions. Were we to ſhut our eyes to the perfidy of thoſe Powers with whom we had contracted alliances? Where was the inſtance in the French Convention, or the Jacobin Club, that could match the perfidy of the King of Pruſſia to Poland? He not only encouraged the Poles in modelling their conſtitution, but he publicly congratulated them on having made their monarchy hereditary in the family of his relation the Elector of Saxony; and in twelve months after, he audaciouſly abandons every principle he had ſworn to maintain, oppoſes the hereditary claim of Saxony, declares that the revolution in Poland had given juſt cauſe of offence to the Empreſs, and ſecretly and perfidiouſly co-operates with Ruſſia for a ſhare in the plunder of Poland thus ſhamefully betrayed. Talk of France! Is there among all the reprehended freaks of madneſs, among all the atrocities of that deluded nation is there one action ſo guilty, ſo deliberately guilty, ſo premeditated, ſo abominable as this conduct?

When negotiation with France was the queſtion, and the Republic and its rulers were concerned, we were particularly reminded of the wickedneſs of the individuals who directed the affairs of that diſtracted country, and an appeal was made to every moral and religious principle in our nature, in order to excite our indignation; and they were told, "Think not of France as a nation, look not to general maxims of policy, conſider only the morals and characters of the men with whom you muſt negotiate."—When the conduct of our Allies was mentioned, we were told, "Think not of the cruel and perfidious diſmemberment of Poland, look only to the preſent object, and the aid they can afford you to obtain it." The obvious inference was, that to the vices of thoſe who dwelt in Courts, and who filled, or rather diſhonoured, Thrones, we were to be wilfully blind; and while the wickedneſs of the Anarchiſts was to provoke us to hoſtility, the infamy of the Monarch was to ſecure him our friendſhip and alliance. They had been ſeriouſly told, that they were contending with all Europe

Europe for the cauſe of all civil ſociety, while the Sovereign of one of the moſt potent States engaged in this momentous conflict, was detaining, in a tedious, gloomy, and hopeleſs captivity, a virtuous and meritorious individual (M. de la Fayette), in equal contempt of the laws of nations, and the common dictates of humanity. When he ſpoke of Kings, he deſired always to be underſtood as ſpeaking of Courts and Cabinets, for he held it to be in general as true in other countries as in this, that for the actions of Princes their miniſters were reſponſible. But what could be ſaid of men who, while they were guilty of ſuch actions, affected to be under the benign influence of Chriſtianity, and the dictates of ſound morality, but that they were ſhameleſs hypocrites, who, arrogating to themſelves the poſſeſſion of the fineſt feelings of our nature, were indulging the worſt paſſions incident to man—hatred and revenge. It was in vain that we had virtue, humanity, religion in our mouths, while paſſion and malignity were rankling in our hearts, and diſplayed in our actions. In extenuation, or rather in excuſe, of the treatment which this unfortunate gentleman had received, it had, as he underſtood, been alledged by the Court of Pruſſia, that M. de la Fayette was the priſoner, not of one ſtate individually, but of all the Combined Powers. This aſſertion, though frequently made, he believed to be untrue; but at any rate, it was incumbent upon Great Britain, as ſhe valued her dignity and honour among nations, to diſclaim all participation in a conduct ſo derogatory to the principles of ſound policy, and ſo contrary to that ſympathy for unmerited calamity, by which Great Britain had hitherto been ſo honourably diſtinguiſhed.

We had publicly approved of the conſtitution of 1789; ſince we had not only approved of it but had acted upon it. When Lord Hood ſailed againſt Toulon, he had received orders from our Government to acknowledge that conſtitution; and when Toulon was ſurrendered, the ſurrender was accepted under the conſtitution of 1789. It was by that rule of law we promiſed to guarantee the Touloneſe, until the reſtoration of Louis XVII.; and though words in general were not to be regarded, in Lord Hood's declaration the words were ſo clear, expreſs, and intelligible, as to confirm the allegation: For, inſtead of giving the ancient hereditary title of his anceſtors to Louis XVII. calling him King of France and Navarre, we acknowledged him only by the title which the Conſtituent Aſſembly had given him, namely, that of King of the French. This was the exact ſpirit of the letter of the treaty, and on the ſpot where we acted a part to ſtand as an example to the reſt, we confirmed every proceeding of the

Conſtituent

Conſtituent Aſſembly of 1789, not only in regard to meaſures but to words, for we retained the municipalities, &c. &c. of the names and cuſtoms of which Mr. Fox profeſſed not to have a complete knowledge. What juſtification then remained for us, when, at the very time we confirmed the conſtitution of 1789, we ſuffered one of its moſt illuſtrious founders and ſupporters to languiſh in a dungeon, without a crime imputed to his charge? With how much more effect might he have been ſent commiſſioner to Toulon than Sir Gilbert Elliot? But mark the horrible contraſt between our words and our actions—While we were holding this language to the people of Toulon, he who loved rational liberty, who loved his country and his King, who had ſacrificed, in their defence, his friends, his country, and what he prized, if poſſible, above all theſe, his popularity, in fact, all that makes life deſirable, was languiſhing in one of the moſt loathſome dungeons of a Pruſſian priſon, for that very conſtitution we approved of.

The conduct of Great Britain was ſingular: For at that very time in which we acted on the principles of the Conſtituent Aſſembly, the Auſtrians, in Alſace, removed all the municipal officers and agents appointed by that Aſſembly, purſuing a ſyſtem directly the reverſe of ours at Toulon. While we were profeſſing to ſupport the conſtitution of 1789, General Wurmſer had entered Alſace. What were his orders from the Emperor? Did he profeſs to ſupport the conſtitution of 1789? No ſuch thing; his orders were to abrogate every authority eſtabliſhed under that conſtitution, and completely reſtore the old form of government. This, which was matter of fact and practice, proved that the views of the Emperor could not be the ſame with ours. Let it be alſo recollected, that when Dumourier, the moſt enterpriſing and the moſt active general that had lately appeared, propoſed joining the Prince of Saxe Cobourg, he was declared a wiſe and virtuous citizen, reſolved to give peace to his country, and to aſſiſt with his army in reſtoring, not the old deſpotic ſyſtem, but the limited monarchy of 1789. Why was this proclamation iſſued by the Prince of Saxe Cobourg? Was it becauſe he meant to adhere to it?—Nothing like it. As ſoon as Dumourier's defection was found to be, not the defection of an army, but of a general and a few followers, all his wiſdom and virtue vaniſhed with his power, and within four, or at moſt five days, the Prince of Saxe Cobourg, without waiting to ſee what effect his firſt proclamation would produce in France, with audacity and effrontery unparalleled in hiſtory, iſſued a ſecond proclamation retracting every word of it. This Mr. Fox declared he ſtated to prove that there was as

little

little ſincerity in the profeſſions of the Emperor, and they were as little to be depended on as thoſe of the King of Pruſſia.

France, which he believed was compoſed of 16,000 ſquare miles, and contained between 20 and 30 millions of inhabitants, he would venture to aſſert, had not, in all her periods of commotion and rebellion, produced any thing ſimilar to this. He defied any Gentleman to name a parallel. The Prince of Cobourg did not aſſuredly iſſue his laſt proclamation without a thorough knowledge of the court for whom he acted; and as it was impoſſible in four days to remit his reſolutions, or apply for directions, was it not a complete proof of the inſincerity of Auſtria? Mr. Dumourier then came to England, where his deſertion had inſpired ſo much joy, and lighted up every countenance; but here he had ſcarcely arrived, before he received an order to quit the kingdom; and ſince his leaving Great Britain he had wandered from country to country, ſurely in a condition not to be envied by any of the generals in the French republic, unleſs thoſe in confinement before the Revolutionary Tribunal, or under the immediate horrors of execution; and ſcarcely indeed to be envied by them, ſince his fortune was the ſevereſt of the two. What was the leſſon thus held out to Frenchmen? That it was better to run the hazard of the guillotine in France, than to take the certainty of miſery and contempt among the allies. Could this meaſure be called policy? If it could, it was moſt juſtly to be condemned, ſince it was of a piece with that flagrant incapacity, both civil and military, which had been manifeſt throughout the conduct of the war. Has the King of Pruſſia promiſed to reſtore to France the conſtitution adopted by her in 1789? Or if he has, has he done it in ſtronger terms than thoſe he uſed in aſſuring the Poles of his approbation of their efforts after freedom? Has the Empreſs of Ruſſia made ſimilar profeſſions? Or are we to look for her obſervance of them in her exemplary conduct towards the Poles? Is it in the mad and fooliſh manifeſtoes of the Duke of Brunſwick that we are to find the good faith of Auſtria, and the conformity of her views with ours? By looking round upon all theſe circumſtances, the only comfortable reſult was, that our faith, our conformity between our profeſſions and our actions, appeared as a ſplendid exception to that ſyſtem of inſincerity and want of faith, which diſtinguiſhed all the reſt of the combination againſt the French nation.

Another topic demanded ſerious and cloſe attention. In the proſecution of this war, we had talked of indemnity for the paſt, and ſecurity for the future, as our objects; although in

one of our numerous declarations, one of thoſe points ſeemed to have been given up. However, although we ſhould not inſiſt on it, with regard to ourſelves, at leaſt we would be ſuppoſed to demand it for our allies; and yet with this object neceſſarily in view, we called upon Frenchmen to join us in aſſiſting to expel their preſent rulers! Now let us ſuppoſe a well-diſpoſed Frenchman, an enemy to the tyranny of the Jacobins, arguing the caſe with himſelf, he would naturally ſay, Foreign aid is in itſelf a dangerous remedy: However, as the evil is great, and not to be avoided, and there poſſibly may be no other mode of effectually curing it than by ſuch aid, I will ſubmit to it, if attainable, upon fair terms. If he were to aſk what thoſe terms were upon which we propoſed to act, he would be told, ſecurity and indemnity. Security againſt the interference of France with her neighbours, might, perhaps, be effected, however difficult; but as to indemnity, there were ſtill greater difficulties in the way. To this country, indeed, ſhe might ſurrender ſome, if not the whole of her Weſt India iſlands, and that, perhaps, might ſatisfy us. But was this all? No ſuch thing; after we were ſatisfied on the point of indemnity, our allies would want an indemnity, and what would be enough for them? There was the Emperor, the King of Pruſſia, the King of Sardinia, the Empreſs of Ruſſia, the King of Spain, the Queen of Portugal, the King of Naples, forcibly dragged into the confederacy. Except ourſelves and Holland, not a ſtate had joined the confederacy but thoſe under the dominion of abſolute monarchies. Holland, we all knew, had been drawn into the combination by influence equivalent to force, and would rejoice in an opportunity of getting out of it with ſafety. The caſe then being, that every one of the allies was to have his ſhare, the very perilous event of the war would leave France in no worſe ſituation; for they could at laſt only take and divide France amongſt them. Great powers would require great indemnities; nor would they be content with the detail or an exact debtor and creditor account. If the Frenchman looked to Poland, he would ſee that nothing ſhort of the partition of France would ſatisfy them; and could he be expected to riſk his life by riſing in oppoſition to the Convention, when the moſt flattering proſpect of ſucceſs preſented to him was the ultimate ruin of his country? If France ſhould be ſubdued, an event which he never conſidered as probable, the whole kingdom might not be ſufficient to indemnify all the powers at war, and then we muſt have to fight for the diviſion of the ſpoil, without even that deluſive calm, which had been ſaid to be all that could now be obtained by a peace with France.

It

It was certainly much eaſier to look back, and to detect the errors conſequent upon the miſconduct of weak and wicked miniſters, than to look forward, and propoſe a remedy to them. Upon a ſuppoſition however that indemnity was granted, what would follow but a temporary repoſe? The ſeeds of another war would be ſown, and devaſtation would ſoon enſue. Was there leſs to apprehend from Auſtria and Brandenbourg than France? It was pretty well known that ſome of our allies were not very cordially diſpoſed towards each other, and was not a general wiſh of the combined armies at Frankfort, and along the Rhine, to engage with each other lately manifeſted; and would not that wiſh have been carried into execution, but for mutual fear, and the apprehenſion of having to contend with ſuperior power?

Moſt of the confederates being abſolute monarchs, their views are conſequently repugnant to the principles of a free ſtate or a republic. The republic of Genoa, which, he hoped, would never be *compelled* to enter into the diſgraceful confederacy, forced our admiration of its political prudence, in having ſo ſtudiouſly avoided all interference. Switzerland, powerful in many points of view, and diſtinguiſhed by the wiſdom and learning of its inhabitants, declined taking any part againſt the independence of their neighbours.

Not having many correſpondents abroad, and underſtanding nothing more than the daily converſation of the town, and the various newſpapers, foreign and domeſtic, informed him of, Mr. Fox confeſſed himſelf incompetent to ſpeak with preciſion on the ſubject; but he certainly underſtood that the King of Pruſſia had declared, not his unwillingneſs, but inability to carry on the war unleſs he received a ſubſidy of 700,000l. If the fact were ſo, he conſidered it as a fortunate circumſtance, ſince it opened a door to us to extricate ourſelves, and accompliſh not a *ſeparate*, but a *general*, peace, with the conſent of all the allies. This was a deſirable object, when all the calamities and diſtreſſes of the firſt campaign were duly weighed by the Right Hon. Gentleman oppoſite to him, who attempted always to prove the contrary, by crying up the ſucceſſes of the early part of the laſt, chuſing to paſs over the diſaſters that preceded its termination.

Let the Houſe however act more fairly and more wiſely, and let Gentlemen recollect how auſpiciouſly we commenced the campaign, and that it was invariably maintained that the enemy was reduced to one deſperate effort. For that effort he would uſe an old-faſhioned phraſe, and call it *perſeverance*; for by that effort did they retrieve their loſſes. While they ſtood againſt misfortune, defeat, diſmay, and diſcomfiture, in

one campaign, and could recover themſelves by one deſperate effort, ſo as to inſtil intimidation, can the next, however brilliant in its commencement, be finally enſured to prove propitious?

Mr. Fox deſcribed the ſituation of France at the commencement of the war, and compared it with the preſent. He remarked upon the peculiar eloquence of the Right Hon. Gentleman oppoſite, and his happy art in painting pictures. What a field for Barrere, if he had poſſeſſed the powers of the Right Hon. Gentleman, to declaim in the Convention on that period when France was diſtracted with anarchy and rebellion; when La Vendée, and part of Britanny, were in a ſtate of revolt; when Lyons withſtood a deſperate ſiege; when the whole of the South was ripe for commotion; when Toulon had ſurrendered to the Engliſh, and Marſeilles was hourly expected to follow the example; when an invaſion was threatened in Normandy, Valenciennes had been taken by the allies, and the Northern Powers were every day ſucceſsful on the Rhine; and then to turn to the evacuation of Toulon by the Engliſh, the defeats in the North, &c. &c. what a ſubject for deſcription, and all that glare of eloquence with which the vulgar are ſo eaſily and ſo generally dazzled! It ſuited the Right Hon. Gentleman, however, in that Houſe, to give the reverſe of theſe deſcriptions, and that with more ſkill than the facts which made up the ſubject would warrant.

In noticing the ſpeech of Mr. Jenkinſon, Mr. Fox ſaid, that he was neither young nor bold enough to augur and limit the extent of the evils, nor was he ſure of the recovery of Savoy. He knew what the Hon. Gentleman had been pleaſed to tell him, that Savoy was a proper ground of ſtipulation, though Savoy had not only not been conſidered as a ground of war, but not even of ſuſpicion. He had been told too in former debates of the perfidious conduct of the French. He begged leave to ſtate what had formerly been agitated upon the paſſive negligence of this country, when hoſtilities between the Sardinians and the French were firſt commenced. War with Sardinia was declared on the 16th of September; yet the Parliament was prorogued from time to time, and either the greateſt indifference or the greateſt careleſſneſs prevailed. The battle of Jemappe happened between the order of the council and the affixing of the great ſeal to the prorogation, ſo that it was before it was announced in the Gazette. Mr. Fox recapitulated what he had done laſt year, with the aid and aſſiſtance of his few but Honourable Friends in Oppoſition;—firſt, with reſpect to the declaration of war, and laſt, to the continuance of it; and ſaid, it was a matter of great conſolation

to

to him, that, in ſpite of popular clamour, he had uſed every endeavour to prevent the war, and when it was unfortunately commenced, to render it as ſhort as poſſible. He hoped that his friends would ſome day regiſter with himſelf, upon the Journals, an account of what they had predicted, with the accompliſhment of that prediction, and their unerring conſiſtency in the ſame ſentiments. He would ſay nothing of the calamities inſeparable from war, although on every queſtion they were perfectly in order. It was idle to ſay, that becauſe they were general topics, and applicable to every war, they were fit matter of argument againſt none. The very circumſtance of their generality rendered them matter of ſerious conſideration before entering upon any war. It was impoſſible to deviſe productive taxes that would not fall ultimately upon the lower claſſes; and when ſuch additional burdens had been impoſed, it was impoſſible to call war a ſtate of proſperity. Every new tax fell heavier than thoſe which went before it. Thus, as the taxes in the American war were heavier than the ſeven years preceding war, becauſe they came in addition, ſo the taxes of the preſent war were heavier than that with America, becauſe they came in addition alſo. It behoved them to regard the diſtreſſes of the poorer claſſes of people, and endeavour to alleviate them. Conſcious that the war rather increaſed them, however, than otherwiſe, he could not better diſcharge his duty than by reſiſting it in every ſhape, and therefore, believing that ſeveral of the allies were diſpoſed to peace, he again thanked his Hon. Friend for bringing forward the motion, as it afforded him an opportunity of recording his oppoſition to a war which he had not ceaſed to deprecate from the beginning, and which he had ſeized every occaſion of oppoſing as unjuſt in its principle, unſucceſsful in its progreſs, and ruinous in its perſeverance.

The Chancellor of the Exchequer ſaid, that, from the manner in which the queſtion had been introduced and argued, he conſidered it to lie in a very narrow compaſs; and therefore it was not his intention to detain the Houſe for any length of time. One ſort of language, and one ſort of conduct, ſeemed to pervade every diſcuſſion that had taken place concerning the preſent war, which originated in the opinions held forth by thoſe who were avowedly againſt it. The principles, however, founded upon thoſe opinions, were completely contrary to the opinion of a great majority of the Houſe, declared and teſtified on every occaſion when there had been an opportunity of their expreſſing themſelves on the ſubject, and likewiſe againſt the prevailing ſentiment of the country at large. The principles and arguments maintained and inſiſted on by the

the Hon. Gentlemen on the other ſide went to eſtabliſh, that the conteſt in which we were engaged was unjuſt, unneceſſary, and ought to be put an end to immediately: Nay, they went even the length of aſſerting that an immediate end ought to be put to the war, whether the objects which induced us to enter into it were obtained or not; a doctrine which, after the repeated deciſions of the Houſe, the ſanction of Parliament, and the country, as to the cauſe, the object, the conduct, and the reſult of the war, as far as it had gone, they never could agree to. He could not believe that there exiſted any ſuch change of opinion as had been talked of. If it were true that we had entered into an unprovoked, unneceſſary, and unfortunate war; if it were true that we had entered into a war in which this country had no ſort of intereſt, and that we had engaged in a confederacy with deſpotic and abſolute powers, merely to aſſiſt them in their ambitious views againſt the liberties of other nations, in which unwarrantable conduct we could eventually receive no benefit; then ſuch arguments might be applied with propriety, ought to be liſtened to with attention, and to have their full operation and effect in that Houſe.

If Gentlemen meant to ſay that we ought to make peace at the preſent juncture, he would wiſh the Houſe to recollect, before they aſſented to that propoſition, that the war had not been voluntary on our part, nor even an offenſive war, but a juſt and neceſſary defenſive war, the conſequence of an aggreſſion on the part of France, and therefore it was not in our power to make a peace. We were engaged in a war for the defence of our religion, our property, and our liberty, which were all endangered by the unprovoked attack of France. Fortunately for us, we were happy enough to find other Powers whoſe intereſts led them to join with us, waiting for our deciſion, and willing to make a common cauſe with us againſt the common invader of the rights of all mankind. When Gentlemen talked of the aggreſſion of other Powers, againſt the liberties of France, they ought to recollect that French liberty turned out to be the moſt horrid of all tyrannies, every thing that was dangerous was to be apprehended from that ſyſtem, nor ought it ever to be out of the recollection of the Houſe in their deliberations about the war. The motion before the Houſe had no other tendency than that of diſuniting and ſeparating thoſe allies who had coaleſced for the purpoſe of general defence. Were Gentlemen prepared to ſay, that it was impolitic in this country, ſituated as it was at the commencement of the war, to contract alliances with thoſe Powers in Europe who were the moſt capable of aſſiſting in endeavours

deavours to obtain the common object? Until they were able to prove that propoſition, they could not expect that the Houſe would agree in a meaſure which would inevitably deprive us of our allies, and leave us alone to contend againſt France. He did not approve of arguing generally againſt alliances, from certain paſſages in the hiſtory of ſome of the individual Powers with whom we were allied; and thought the whole tenor of thoſe arguments, and the motion, was to hold out to thoſe allies a want of confidence in them, and a public ſignal to the enemy, that we were not equal to the taſk we had undertaken; which he denied to be our real ſituation: Nor could he believe that the Houſe or the Nation was ſo changed in opinion, as to relinquiſh, from any improper timidity, the only poſſible way left of preſerving the principles, the ſecurity, and the independence of the Britiſh conſtitution, as well as the general tranquillity and happineſs of Europe.

The Chancellor of the Exchequer obſerved, that much reliance had been placed upon particular parts of the conduct of our allies, which were, it was ſaid, ſufficient to prove that we ought not to coaleſce with them. He did not think himſelf called upon to enter into a general defence of their conduct; but he wiſhed to obſerve, that ſuch parts of their conduct as ſeemed to excite the moſt cenſure, had no relation to the preſent war, and therefore could not properly be brought under their diſcuſſion upon this occaſion. Even allowing that the conduct of the allies had, in particular inſtances, been ſuch as not to be entirely reconcilable to the ſentiments of the Engliſh people, yet ſurely thoſe inſtances were not ſo flagrant as to prevent us from drawing all poſſible advantage from their aſſiſtance againſt the common enemy, upon an occaſion of ſingular and unexampled emergency. This principle might be carried ſtill further, and it might be contended that we ſhould, upon no occaſion, have recourſe to allies, unleſs we could agree with them entirely in principle, in object, and in every one of their rules of conduct.

Although Gentlemen had argued ſo earneſtly for the neceſſity of an immediate peace, had any one of them ſtated how it was to be obtained? It was ſaid on the other ſide, "Only diſſolve the confederacy you have entered into, and every obſtacle to peace will vaniſh;" and this was, in fact, conſiſtent with all their opinions, and, as he had before declared, the real meaning of the preſent motion; for it was merely, in other words, a motion for an immediate peace at any rate, and upon any terms; not by objecting to the origin, the conduct, or the ſucceſs of the war, for on theſe points the Houſe had come to repeated deciſions; but they took other means;

means; and an attempt was made in hopes to intimidate the country, by ſtating, in a ſtrong ſenſe, the temporary calamities ariſing out of the unavoidable conſequences of war, all of which diſtreſſes were dwelt upon in their order to alarm, rather than to convince, with a view to induce the Houſe to a change of their former opinions. Let the Houſe conſider, whether adopting this mode of argument was the moſt likely to produce good effects? or whether it was not better to bear with fortitude and perſeverance thoſe difficulties that might ariſe in the purſuit of a cauſe which there was ſuch an evident neceſſity of perſiſting in with the greateſt vigour and exertion? If the motion of the Hon. Gentleman was adopted, it would, in fact, be throwing ourſelves upon the mercy of France, and begging the Convention to grant us peace; a ſituation to which he hoped the ſpirit of this country would never condeſcend to ſtoop, nor its reſources ever compel us to incline.

Upon different occaſions, it had been aſſerted, not indeed by the Right Hon. Gentleman himſelf, but by others on that ſide of the Houſe, that this was not a defenſive war on the part of this country. Thoſe who were of that opinion, and who of courſe thought that we were the aggreſſors in the war, might, according to thoſe principles, agree to this motion: Thoſe who thought that France was at preſent fighting for the cauſe of the general liberty of mankind, might alſo vote for the motion, and rely upon the *good faith*, the *moderation*, and the *honour* of France, to ſecure to us the permanent bleſſings of peace. But he hoped they would not bring over to their opinion thoſe Gentlemen who, conſtituting a large majority of the Houſe, had thought that we were compelled to enter into the war for the purpoſe of defending ourſelves from the deſtructive effects of French principles, enforced by French means, by the bayonet and the guillotine, by injuſtice, oppreſſion, fraud, famine, robbery, and murder.

Gentlemen on the other ſide had abandoned thoſe reaſonings which they formerly preſſed reſpecting the origin of the war, and had now recourſe to a new ſpecies of argument. They contended, that the misfortunes of the war had affected the trade of the country, and had induced the people in general to look with anxiety for peace, as the only means of reſtoring them their trade and commerce. That any war, and particularly ſuch a war as the preſent, could not be carried on without in ſome degree injuring the commerce of the country, he admitted: But in the preſent war, the diminution was much leſs than could have been expected; and when Gentlemen called to mind what it was we were contending for, they would not think much of ſuch a trifling and temporary depriva-

deprivation of commerce. It ought beſides to be recollected, that, in proportion as the power of France, on their preſent ſyſtem, was extended, the liberty and commerce of all European nations muſt be ſhaken and endangered, liberty and commerce, two bleſſings of which Great Britain of all others poſſeſſed by far the largeſt ſhare.

The Chancellor of the Exchequer obſerved, that a great part of the ſpeech of the Right Hon. Gentleman had been ſpent in arguing the propriety of preſſing all the common arguments againſt war, *viz.* of the diſtreſſes which it cauſes to the bulk of the people. However proper it might be, upon ſome occaſions, to uſe thoſe arguments, it could not be proper in a war of neceſſity, ſuch as the preſent, as the only effect of it could be to induce the people to be uneaſy under the neceſſary burdens of the war.

The Right Hon. Gentleman had aſked with a degree of triumph, if the laſt could be counted one of the ten years of proſperity which this country was ſaid to have enjoyed?

It was not, the Chancellor of the Exchequer ſaid, either his meaning or his wiſh to conceal from the Houſe the real ſtate of the country: He therefore felt no heſitation in admitting, that, conſidered in a commercial point of view, the proſperity of the country laſt year had not been equal to that of former years; but the calamities of laſt year did not reſult from our having engaged in hoſtilities; the preſſure aroſe from the continental war, which would have exiſted whether we had taken a part in the war, or not. All Europe felt the ſhock which the politics of France occaſioned; the commerce of other countries, as well as this, was materially crippled; the temporary check of mercantile credit in this country was accidental, ariſing from various viciſſitudes; but happily the misfortunes were, as he ſtated them to be, merely temporary; and the rapidity with which this country recovered (for it had ceaſed in a few months) the ſhock, was the ſtrongeſt proof of its great reſources, and juſtified our reſolute exertions and perſeverance in a conteſt on the ſucceſsful event of which the proſperity and increaſe of thoſe reſources ſo eſſentially depended. Much as we lament the preſſure of laſt year, the reſources which it had diſcovered afford joyful hopes, that, if the cauſe is worth perſevering in (which he had not the ſmalleſt reaſon to doubt), we have ſufficient ability to carry us further. At any rate we ought not to relinquiſh the purſuit, though our hopes of ſucceeding were even leſs promiſing than they are at preſent. Our laſt efforts, as men, ſhould be made before we deſert our former reſolution.

A new argument had been reſorted to that day: It had been firſt contended, that, from the circumſtances of the war, we could not expect ultimate ſucceſs; and that, let the event be what it would, it had been aſſerted, that if we ſhould be ultimately ſucceſsful, we ſhould afterwards have to fight with our allies for the ſpoils of France. This certainly was a very ingenious mode of reaſoning: With regard to the firſt part of it, the ſpirit of this country, her reſources, the efforts of our allies, and, above all, the ſituation of France, rendered that danger remote indeed, even if probable: And as to the ſecond part of the argument, it was one which would apply to every war in which we were engaged with any allies, and therefore he ſhould not enter into any more detailed reply to it. By way of proving that we had but little hopes of ſucceſs in the war, it had been ſaid, that the latter part of the campaign had not been ſo ſucceſsful as the beginning: He did not mean to deny that the latter part of the campaign did not completely anſwer the ſanguine expectation of thoſe, who, elated by the aſtoniſhing ſucceſſes which attended the allied arms early in the campaign, had not foreſeen the probability of any check; but it ſhould be recollected, that in the tide and current of the moſt triumphant war, ſudden reverſes of fortune could not be guarded againſt. Admitting, therefore, that at particular periods ſince the commencement of the war, our ſituation might have been comparatively better than it was at the end of the laſt campaign, yet, in order to form a true eſtimate of our preſent ſituation, we ſhould call to mind the ſtate of Europe at the time when Great Britain engaged in the war. The current of war had not ever been, and could never be, uniform; but comparing our ſituation at the beginning of it, with the preſent moment, he aſſerted it to be very encouraging, and agreed with the ſentiments expreſſed in the King's Speech on this point, from a conſideration of the poſitive circumſtances—the fortreſſes gained, and the barriers paſſed by the Combined Powers, with our aſſiſtance. Let theſe points be conſidered, and, he was perſuaded, there was no man in that Houſe who would contend that the face of affairs had not undergone a very conſiderable change in our favour ſince that period.

Another mode of aſcertaining on which ſide the advantage of the conteſt lay, would be, to examine which of the parties engaged had incurred the greateſt expence. Look at France, with an expenditure beyond all calculation exceeding that of any power in Europe. We certainly had ſeen, and were now ſeeing, very great preparations in France, but we likewiſe ſaw that they are not made with eaſe, nor even the reſult of natural

tural cauſes, proſperity, or internal wealth: In proof of this, he referred to their mode of raiſing, recruiting, and applying their military force, their revenue, their finance, and their expenditure; all of which was done by coercion and terror; and exhibited no reſource, but extortion keeping pace with prodigality. Compare theſe circumſtances with the facility with which the reſources of this country are called into action, and compare their coſts, in the preſent war, with thoſe of our allies and ourſelves, and any one muſt be led to think, that there was much more probability that France would ſink under the preſſure of the war, than the Combined Powers.

The Chancellor of the Exchequer took notice of the alluſion that had been made, in the courſe of the debate, to an unfortunate Gentleman, Monſ. de la Fayette. The Right Hon. Gentleman had ſaid, that a report was circulated that M. de la Fayette was kept in confinement at the expreſs deſire of the allies. For others he could not anſwer, but he could poſitively aſſert, that no requiſition to that effect had ever been made by the Court of London.

With regard to Poland, he participated in the concern of every Member in the Houſe, reſpecting the hard fate that unfortunate country had experienced, and was as little inclined to approve and applaud the proceedings of the Empreſs of Ruſſia or of the King of Pruſſia in that particular. He denied it was the intention of the Emperor, or the allies, to impoſe or revive the ancient deſpotiſm in France; and as for the argument of dividing France that had been urged, he would only ſay, that it made againſt all wars in which confederates were engaged. Nor did he ſee how it followed, that becauſe the allies were not cordial, or attached to each other, we, who cemented the confederacy, ſhould be the firſt to diſſolve it; all arguments on the character of our allies he conſidered as wholly out of the queſtion.

The Chancellor of the Exchequer, after more matter of animadverſion and reply, ſaid, he did not think it neceſſary for him to take up the time of the Houſe any longer. Gentlemen had not forgotten that the war was a war of defence on our part; that the events of it were not diſcouraging; that the country was not in ſuch a diſtreſſed ſituation as had been repreſented; and that, inſtead of being an object of cenſure, it might rather be conſidered a matter of congratulation, that we had been able to unite in our cauſe ſo many powerful States. He muſt therefore reprobate a motion, the tendency of which would be to ſhake and looſen that powerful confederacy which we had the beſt means as well as the greateſt intereſt to cement, and by ſo doing to expoſe ourſelves to the

renewal of thoſe machinations which the war was undertaken to defeat.

Mr. Robinſon ſpoke a few words, but in ſo low a tone, that it was impoſſible for him to be heard.

Mr. Whitbread roſe to claim the uſual privilege of a reply. He ſaid the Right Hon. Gentleman oppoſite (Mr. Pitt) had repreſented the reſources of France to be exhauſted. This was not the caſe. So far from it, he was convinced, Mr. Whitbread ſaid, that her reſources were inexhauſtible. The tyranny in France, ſo much reprobated on the other ſide of the Houſe, he maintained, was the conſequence of the combination formed by her oppreſſors, and by which ſhe was at this moment on all ſides threatened. He ſaid, that the conſtitution of 1792 was an infant of fair birth; but if it was now miſ-ſhapen and vile, it was totally owing to that confederacy, to which the Chancellor of the Exchequer was ſo much attached. His Right Hon. Opponent, he obſerved, had made uſe of one ſweeping argument, that if we did not ſubdue the French, they would ſubvert our conſtitution; but he declined entering on thoſe topics which had been ſtated in ſo able and maſterly a manner by his Hon. Friend. and which every Gentleman preſent muſt allow ſtood unrefuted. The Right Hon. Gentleman had dwelt much on the boaſted ſucceſſes during the laſt campaign, and he ſeemed to conſole himſelf with the idea, that France could not continue thoſe expenditures, which had rendered her ſo formidable ſince the commencement of the war; but he aſked, was there any man fooliſh or weak enough to doubt her reſources, when they contemplated the efforts which America was enabled to make, when fighting for her liberties, and againſt her oppreſſors? While France had

"Men and ſteel, the ſoldier and the ſword,"

like America, ſhe would prove invincible againſt her enemies. The efforts of diſciplined armies, however numerous, he ſaid, were impotent againſt enthuſiaſts in the cauſe of liberty, eſpecially when thoſe efforts are directed againſt what had been emphatically ſtyled *an armed nation.* The Right Hon. Gentleman had been preſſed cloſely, to anſwer the queſtion put to him with reſpect to the King of Pruſſia; but he could not be brought to ſtate, whether that Monarch had, or had not, a ſubſidy from this country, amounting to 700,000l. and whether he had not made a demand of a ſubſidy to that amount, to enable him to continue an active ally in the confederacy againſt the French republic. Having, however, ſaid he would uſe every means in his power to cement the confederacy, when

he

he had given France to be divided among them, they might diſcover that there were Jacobin principles in our conſtitution which required their interpoſition to exterminate. If Gentlemen would recall their reaſon, they muſt admit, that the King of Pruſſia ſent troops into Poland, where many aver, that he firſt ſowed thoſe ſeeds of *Jacobiniſm*, agreeable to the faſhionable phraſeology of the day, in that country, which produced that temperate and happy form of government which had been annihilated by the Empreſs. With perfect conſiſtency, therefore, he ſent his armies to deſtroy that ſyſtem of Jacobiniſm which had been ſtated at preſent to prevail in France. Jacobiniſm, he remarked, was the *alarm*-word of the day, and was uſed as in the times of religious feuds, when every man that did not ſubſcribe to the ſentiments of the ruling power, no matter what might be his ſyſtem of faith, was branded with the name of *heretic*. Mr. Whitbread ſaid, he was firmly perſuaded, that nothing operated more towards the deſtruction of the liberties of the world, than the epithet Jacobiniſm being applied to every man who was a friend to a mild government, and an advocate for reform. His Hon. Friend who ſat near him (Mr. Grey) had been denominated a Jacobin, becauſe he propoſed what the Chancellor of the Exchequer and his friends had firſt warmly recommended; and when ſocieties were formed, ſtrictly legal and conſtitutional, placards were actually placed againſt the walls of every public ſtreet in the city, declaring that they were the wicked inſtitutions of *Fox* and his *banditti*. He entreated Gentlemen to reſiſt and ſtand up againſt ſuch cant terms being uſed; in time, it would have the effect of rendering even our own Government as tyrannical and odious as that of Pruſſia, or any other deſpotic Government, againſt which every good man muſt exclaim.

Mr. Martin declared it to be his ſincere opinion, that every thing ought to be done in favour of M. de la Fayette; and he entreated, if his Majeſty's miniſters could by any means procure the releaſe of the unfortunate Marquis, they would uſe their utmoſt endeavours to releaſe him, if not, let them

"To ſupper with what appetite they may."

He did not, he ſaid, agree with the Chancellor of the Exchequer in what he had ſtated with regard to the relief afforded laſt ſeſſion to the commerce of the country, and lamented that the expences of the war did not fall more on the rich. To him it would be no very great misfortune, if he was obliged to dine upon one courſe inſtead of two or three. But it would be a more ſevere misfortune for perſons in a lower ſphere of life, that, while they beheld the luxury of their ſuperiors, they

ſhould

ſhould be themſelves diſtreſſed for a place to put their heads in; and, inſtead of bread and cheeſe, be reduced to a ſcanty allowance of a dry cruſt only.

Mr. Fox ſaid, he had ſtated merely that the King of Pruſſia had called La Fayette the priſoner of the Combined Powers, not that he believed it to be true.

The Houſe divided—

*Ayes** 26—*Noes* 138——*Majority* 112.

Adjourned.

HOUSE OF LORDS.

FRIDAY, *March* 7.

The Scotland Bank Bill, and five Road and Incloſure Bills, were brought from the Commons, and read a firſt time.

Lord Caernarvon preſented a Petition againſt the Worceſter Canal Bill, which was ordered to lie on the table.

HOUSE OF COMMONS.

FRIDAY, *March* 7.

Sir Henry Clinton was introduced, and took the uſual oaths, &c.

The Chancellor of the Exchequer brought up the Bill for augmenting the Militia, which was read a firſt time, and ordered to be read a ſecond time on Monday the 10th, and in the mean time to be printed.

The Bill for regulating the Penny-poſt paſſed the Committee, and the report was ordered to be received on Monday the 10th.

* Names of the Minority in the Houſe of Commons on Mr. Whitbread's Motion, March 6, 1794.

The Rt. H. Charles J. Fox	John Crewe, Eſq.
Charles Grey, Eſq.	William Huſſey, Eſq.
Lord Robert Spencer	Sir Robert Clayton, Bart.
Lord William Ruſſell	Benj. Vaughan, Eſq.
Hon. St. Andrew St. John	Philip Francis, Eſq.
Colonel Tarleton	Hon. Edward Bouverie
M. A. Taylor, Eſq.	T. C. Creſpigny, Eſq.
Henry Howard, Eſq.	Lord John Townſhend
John Courtenay, Eſq.	William Plumer, Eſq.
William Smith, Eſq.	William Baker, Eſq.
Robert Vyner, Eſq.	John Harcourt, Eſq.
James Martin, Eſq.	Hon. Major Maitland
Dudley North, Eſq.	Joſ. Rand. Burch, Eſq.

TELLERS.

R. B. Sheridan, Eſq.
Sam. Whitbread, Eſq. In all 28.

Agreed

Agreed to go into a Committee of the whole Houſe on Monday the 10th, to conſider of the duty payable on Plate Glaſs.

The Bill for repealing the duties on Paper, &c. and for impoſing the new duties in lieu thereof, was read a ſecond time, and ordered to be committed on Monday the 10th.

MILLERS' BILL.

The Order of the Day being moved for the Houſe to reſolve itſelf into a Committee on this Bill,

Mr. Smith objected to the Speaker's leaving the chair. He thought the Bill novel and deficient in principle, and declared he was determined to oppoſe it, and even in that ſtage to take the ſenſe of the Houſe upon it. It had already excited great alarm in the country, becauſe it went to change the law in every hamlet and village where there was a mill. The Juſtices of the Peace, by the clauſes of the Bill, would be empowered to aſſeſs the charges for grinding, and to exerciſe their diſcretion without any appeal, in matters which had uniformly been decided hitherto by a jury of the country.

Sir Francis Baſſet denied that the meaſure was unprecedented. An Act of Geo. II. gave ſimilar power to Juſtices to regulate the price of bread. The baker was by that ſtatute reſtrained in his profits, and the public found their advantage in the reſtriction: The millers, who had more opportunities of practiſing fraud in their buſineſs, were not reſtrained, nor had they any check upon them; the cuſtoms were ſo various, and the impoſitions ſo numerous, that it was impoſſible to obtain any accurate information on this head, but from thoſe who had left off buſineſs. In ſome places the toll was one ſixteenth part of the corn ground, in others leſs, and in ſome more: This impoſition was tolerated only by preſcription, and was the conſequence and cauſe of continual diſputes. Sir Francis enumerated the frauds and impoſitions practiſed by millers, and urged the neceſſity of eradicating thoſe abuſes. What he propoſed was, that, inſtead of a toll in grain, a payment in money ſhould be made; this regulation would be in favour of the millers, becauſe it was at preſent optional in the people to pay either in money or in grain. When the grain was good they paid in money, when bad they paid in grain. The trouble in grinding was the ſame, whether the corn was good or bad. His reaſon for wiſhing to allow no appeal, was to accommodate the poor people, and to abridge the expence of obtaining juſtice, which he was convinced could be adminiſtered as ſubſtantially by a Juſtice of the Peace, as by any Court of Record. Convinced of the neceſſity of this Bill, Sir Francis

Francis declared, he felt it his duty to inſiſt on its going into a Committee.

The Attorney General oppoſed the Bill, as having a tendency to trench on private property, to violate the law of the land, and to lodge in the diſcretion of Juſtices of the Peace a juriſdiction, which ought only to be decided by the verdict of a jury, under the direction of a Court of competent juriſdiction.

Mr. Huſſey declared, that the preſent mode of collecting toll was inconvenient and unjuſt, as it frequently changed the ſale of corn into that of flour; for a poor man, who was poſſeſſed of a ſmall quantity of corn, would rather diſpoſe of it in any other way than carry it to the miller. The conſequence of this was, that he ſold his corn, and went to the market for flour to his great loſs, and to the great advantage of the monopoliſts. Of this he could ſpeak from his own knowledge.

The Solicitor General thought the laſt objection might be obviated by a clauſe, obliging the miller to be provided with ſcales for weighing the corn both before and after grinding, making an allowance for waſte, &c.

Sir Francis Baſſet ſaid, if the Learned Gentleman had taken the pains to caſt his eye over the Bill, he would have found, that it contained a clauſe to compel the miller to keep a ſcale and weights for the purpoſe of weighing the corn before and after it was ground, allowing for waſte, ſo that he could not take an arbitrary toll. On the queſtion being put, the Houſe divided:

For the Commitment 59—*Againſt it* 39——*Majority* 20

Adjourned.

HOUSE OF LORDS.

MONDAY, *March* 10.

Counſel was farther heard on the Scotch Appeal, Newnham and Co. *v.* Ruſſel and Co.

Several Canal Bills, and Petitions againſt ſome of them, were read.

LORD RADNOR'S PROTEST.

The Earl of Lauderdale ſaid, he thought it neceſſary to make ſome obſervations on a Noble Lord (Auckland) having come down to the Houſe, and cauſed to be expunged from their Minutes ſome part of *Lord Radnor's* Proteſt, without having given previous notice of his intention in that reſpect. His Lordſhip declared himſelf happy to find, that the Noble Lord had felt the neceſſity of not ſtanding a ſingle exception to the unanimous opinion of the Houſe on the queſtion then under

diſcuſſion; but it was the mode he had purſued which called for his animadverſion. Had the Houſe been regularly ſummoned, the Earl ſaid, he would not only have argued that the landing of the Heſſian troops was illegal, but would have denied what had been conceded in the Proteſt, that it was expedient. The Crown, he was ready at any time to contend, had neither the power by its prerogative to land or keep foreign troops in the kingdom, without the previous conſent of Parliament. But if Noble Lords could make ſuch motions without due notice, the moſt ſolemn deciſions, and the minutes of that Houſe, might be altered at pleaſure. He contended, that it was unparliamentary, and contrary to the rules of the Houſe, which ſome Noble Lords, on other occaſions, were ſo ready to conſider as ſacred and unalterable.

Lord Auckland ſaid, he would only offer a few words on the ſubject. He had doubts whether even thoſe few words might not be thought more than the occaſion called for. He was ſorry that the Noble Earl happened not to have attended his duty in the Houſe when the motion then objected to was brought forward. The Houſe, however, had been moſt reſpectably attended; nothing had been done by ſurpriſe. The motion to expunge had been made with the conſent of the Noble Peer who ſigned the Proteſt, and that conſent had been given with great and becoming candour. His Lordſhip added, that if the Noble Earl meant to attribute to him any change of ſentiment on the ſubject in queſtion, he could only repeat, that not the leaſt change had taken place. His opinions had not been lightly formed, and continued preciſely the ſame as they had been delivered to the Houſe.

Lord Sydney ſaid, that the conduct of Lord Lauderdale was the moſt extraordinary he had ever witneſſed; he found fault with the Houſe for having done ſomething in his abſence, which it could not but have done when he was preſent. He was not in the habit of proteſting againſt the opinion of the Houſe, like ſome other Noble Lords; but did he wiſh the words of the Proteſt to remain as they originally ſtood? He ſuppoſed that the Houſe muſt alter what it has done, in order to ſuit his Lordſhip's taſte and opinion.

The Earl of Lauderdale, in reply, ſaid, that he had only once introduced a motion in a full Houſe, and that he was accuſed of taking it by ſurpriſe. He ſaid, Lord Sydney had not lately been in the habit of entering Proteſts on their Journals, but he remembered the time when, in another place, he was as warm and zealous a Proteſter as any Lord in that Houſe.

SLAVE TRADE.

The Order of the Day being read,

The Biſhop of Rocheſter * roſe to make the Motion reſpecting the future mode of proceeding with the examination of evidence relative to the Slave Trade, of which he had given previous notice. The Biſhop ſaid, that three ſeſſions of Parliament had paſſed ſince the buſineſs reſpecting the Slave Trade had been brought before the Houſe. The matter was certainly of great importance, and demanded every degree of ſolemnity, conſiſtent with public juſtice; but he was obliged to ſay, that the delay and protraction that had enſued were ill calculated to obtain the end in view. In the year 1792, the queſtion for the hearing of counſel, and the examination of witneſſes, firſt came before the Houſe, and it was determined that they ſhould be examined at the bar of the Houſe. He was then one of thoſe who voted for their being ſo examined; and he did it in hopes that thoſe Noble Lords who had not made up their minds on the buſineſs, might have a more early opportunity of being convinced of the impolicy, as well as of the inhumanity, of continuing ſo ſhocking a traffic. For his own part, he wanted no additional evidence to guide his mind, and enable him to form his own opinion on the ſubject, but other Noble Lords might be differently circumſtanced. The experience of three ſeſſions had produced very little progreſs. The witneſſes that had already been examined, he believed he might venture to aſſert, without the dread of contradiction, bore no manner of proportion to thoſe that are to be examined; and therefore, unleſs ſome mode could be adopted, for expediting the buſineſs, it would never be brought to a concluſion. When it was firſt brought before the Houſe, it had been agreed that two days in every week ſhould be dedicated to it; but even in the firſt ſeſſion that agreement had been broken through, and in the ſucceeding ſeſſion the buſineſs had been continually put off from time to time, and when brought forward, it was always after the patience of the Houſe was exhauſted in conſequence of having attended to other buſineſs. In the laſt ſeſſion, only ſix days had been allotted to it, and in the preſent, either from the additional weight of buſineſs occaſioned by the war, or from ſome other cauſe, it had not been brought forward at all. It was certainly equally an object to thoſe who were for a continuation of this traffic in human blood, as to thoſe who thought an abolition of it both

* Dr. Samuel Horſley, lately tranſlated from the See of St. David's to Rocheſter, on the death of Dr. Thomas.

a meaſure

a meaſure of policy and humanity, to have a ſpeedy determination on it; but going on as the Houſe had hitherto done, giving their attention to it only for an hour or two, inſtead of four or five, it did not ſeem probable that the evidence would be gone through, or the Houſe be prepared to give an anſwer to the Commons on the buſineſs when the time arrived which they had fixed for the termination of this horrid traffic. The reſpect they owed to their own characters, to the Commons, to the Public, and to the parties who repreſented themſelves, called for a more expeditious mode of proceeding; he was therefore of opinion, that if the further examination of witneſſes, and hearing of Counſel, were referred to a Committee up ſtairs, it would conſiderably expedite the buſineſs; becauſe the Committee could in that way meet at a much earlier hour, and dedicate much more time to it, than the Houſe could poſſibly do. He therefore moved, "That the further hearing of counſel and evidence on the Slave Trade, with the evidence that has already been taken, be referred to a Committee above Stairs."

The Duke of Clarence reſiſted the motion. The Duke deſired that the Reſolution of May 8, 1792, for hearing counſel and evidence at the bar of the Houſe, on the ſubject of the Slave Trade, might be read. It appeared by the entry on the Journals, that an amendment, to the ſame effect as the motion of the Rev. Prelate, had been then propoſed, and negatived by a great majority, who decided that evidence and counſel ſhould be heard at the bar. His Royal Highneſs next took notice of two Amendments that had been made to the original motion by a Noble Lord who was at the head of the commercial intereſts of this country, and another Noble Lord near him (Lord Mansfield). From theſe he argued the great attention of the Houſe to the object when it firſt came before it, and how improper it would be at this time to make any alteration in the mode of conducting the buſineſs. He inſiſted, that the Right Rev. Prelate had himſelf originally voted for the preſent mode of proceeding. The reſolution to examine evidence at the bar of the Houſe was voted in a time of profound peace, and all the time that could be ſpared from other buſineſs, that occaſionally claimed the attention of their Lordſhips, had been given to it. It was to be recollected, that this country was not at preſent in that ſtate of profound peace which it was in at the time the Slave Trade was firſt agitated. We were now at war, and conſequently the time and attention of the Houſe muſt be more taken up, and with buſineſs of a nature more temporary and important. With regard to what had been ſtated by way of argument or animadverſion, that

the Slave Trade not having been brought forward at all this ſeſſion, it ſhould be recollected, that it was a matter of delicacy to the Right Rev. Prelate, whoſe ill health had prevented him attending his duty in Parliament, the manner in which that Rev. Prelate had intereſted himſelf in this affair, having been thought a ſufficient reaſon for delaying it; he could not therefore but expreſs his ſurpriſe, that, on the very firſt day almoſt upon which the Right Rev. Prelate was able to attend the Houſe, he ſhould bring forward a motion of ſuch a tendency. It ought never to be forgotten, his Royal Highneſs ſaid, that the colonies could not be cultivated without ſlaves. Though a very young man, he was convinced that, in a country like Great Britain, the moſt ſtrict attention ſhould be paid to every branch of our commerce and our navigation. In this view the trade was of the higheſt importance; for the country was benefited 24,000,000l. a year by her Weſt India trade; an immenſe number of ſeamen were employed in it, another matter of the firſt conſideration and importance; and upwards of 70,000,000 l. embarked in it by the merchants and other ſubjects of this kingdom. For theſe reaſons, ſurely their Lordſhips would think that they ought to give the buſineſs their moſt ſerious and deliberate conſideration. Beſides, it was brought before them by the Commons of Great Britain. His Royal Highneſs ſaid, that great attention was due to every thing which came from ſo reſpectable a body, but ſtill their Lordſhips muſt judge for themſelves; and he would never conſent to ſubſcribe to the opinion of others, while he had the means of forming a judgment for himſelf on the grounds of evidence. Under all theſe circumſtances, he thought it incompatible with the dignity of the Houſe to refer it to a private Committee; beſides, it was bringing the buſineſs upon the Houſe at a time when it would be the leaſt convenient for their Lordſhips to attend a Committee; at a time when the aſſizes were holding; and it muſt be the wiſh of every Noble Lord to attend the aſſizes in his own county. His Highneſs aſſured the Houſe, that his fellow-ſubjects abroad, as well as at home, looked up to their Lordſhips for a full and a ſolemn inveſtigation of the buſineſs, by which alone their property and rights could be effectually ſecured to them. He concluded by giving the motion his decided negative.

The Biſhop of Rocheſter declared, he was not apprized that the buſineſs had been poſtponed in conſequence of his indiſpoſition; he muſt nevertheleſs perſiſt in aſſerting that their Lordſhips would both facilitate and accelerate the buſineſs by voting for his motion. He ſaid, he was ſtrengthened in this opinion by one of the arguments on which his Royal Highneſs had

had relied, *viz.* that a change of circumſtances had taken place, and that we were engaged in war; the more buſineſs this alteration occaſioned their Lordſhips, the more neceſſary was it to adopt a mode of examining evidence relative to the Slave Trade better ſuited to diſpatch.

The Earl Mansfield ſaid, as he had been particularly alluded to in the debate, he thought it neceſſary to obſerve, that the Houſe had already granted the prayer of the Petitioners, and could not now alter its conduct with reſpect to the mode of proceeding in a ſubject ſo weighty and important. The Rev. Prelate muſt know, that in great and complicated queſtions there was no royal road to evidence any more than to geometry, and he would aſk, Should matters of the ſmalleſt moment be heard at the bar of that Houſe! and would their Lordſhips ſend an affair of ſuch magnitude to a Committee above ſtairs? He thought that would not leave a very great impreſſion on the public mind of the juſtice and honour of the Houſe. He would not give his conſent to the referring ſo important an object to a Committee. Beſides, the examination already had at the bar, muſt, in that caſe, be alſo ſubmitted to that Committee, and it was certainly impoſſible for them to judge of what they had not heard. His Lordſhip placed the motion in a variety of views, and argued very ably againſt it.

Lord Grenville ſaid, that from his official ſituation, and the information he had received in another place, where he had been obliged to inquire in order to form his opinion and pronounce it, wanted no new evidence on the ſubject. The report of the Committee of the Houſe of Commons, and the opinion and deciſion of the Council, left him no room for doubt on the occaſion. The Houſe of Commons had at firſt examined evidence at their bar; every diligence and exertion was made to continue the examination; but finding the great inconvenience of that mode of proceeding, had at length referred it to a Committee. His Lordſhip could ſee no difficulty, nor no inattention to their own dignity, in that Houſe alſo leaving the buſineſs to a Committee, either to collect evidence, or to report upon it; for, as the proceedings were printed, a Committee could judge as well as their Lordſhips of the merits of the queſtion, and might ſit for ſeveral hours before the Houſe proceeded on other buſineſs, and thus diſpatch it without delay. His Lordſhip did not wiſh to anticipate the judgment of the Houſe; but if, like the other, that Houſe ſhould be of opinion that the trade was contrary to humanity and policy, and a ſtigma on the national character, he had no doubt that it would not heſitate to ſay ſo, whatever might be the conſequence to thoſe concerned in it, and their Lordſhips muſt in

that caſe deeply lament that they had adopted ſo tardy a mode of getting through the examination of witneſſes, when they had it in their power to have purſued another mode, infinitely better calculated to produce expedition and diſpatch. His Lordſhip concluded with giving the motion his approbation.

Lord Thurlow expreſſed his ſurpriſe that ſuch a motion ſhould have been brought forward at this time; for what would it be ſaying to the Gentlemen concerned? All parties ſeemed to agree that this was one of the moſt important ſubjects that was ever brought before that Houſe; and yet it was propoſed to refer it to a Committee, in the ſame manner as was done with the moſt trivial matter. The petitioners had the greateſt property at ſtake that ever was embarked in any trade. Engaged in a trade countenanced by the executive Government, ſanctioned by the Legiſlature, but which was now termed, by religion, horrid and infamous, the petitioners called upon their Lordſhips to decide whether they had embarked in it on fallacious aſſurances, or were entitled to the protection of the Legiſlature. Their deciſion, his Lordſhip ſaid, ought moſt undoubtedly to be given on evidence examined in the fulleſt and moſt ſolemn manner; and he believed the records of Parliament afforded not a ſingle precedent of a queſtion of ſuch infinite magnitude and importance being referred to a Committee above ſtairs. He had always been in the habit of conceiving, and he was much miſtaken if the Journals did not warrant his concluſion, that whenever any matters of great national magnitude were brought under conſideration, it was the uniform practice to give them the moſt ſolemn and ſerious attention, and which could only be done at the bar of that Houſe: This their Lordſhips had alſo agreed to, in the preſent inſtance, for two ſeſſions; and now it was propoſed to alter the mode. What did that imply, unleſs that they did not now conſider it of that importance, or that they were tired of it? an impreſſion which he hoped would never be given by that Houſe to the Public. The abſurdity of the propoſition alſo to him appeared apparent, for it recommended the further examination of witneſſes, &c. Did it mean, by way of expediting, that they were to begin again, and go through all their Lordſhips had done? for, if otherwiſe, it would be two diſtinct parts, and he did not ſee how they could poſſibly be united. It had been ſaid, that certain Noble Lords in office could not attend on account of other preſſing public buſineſs, and that it ought to be referred to a Committee for the ſake of diſpatch. Was it more likely that thoſe who could not attend on the buſineſs at the bar, would do ſo in a Committee? As to the word *diſpatch*, he did not like it,

it, when applied to an inquiry into the nature of a commerce in which ſuch immenſe property had been engaged, as it was alledged by the petitioners, on the faith of Parliament. It was the bounden duty, as well as policy, of every wiſe and good Government, to ſhew all poſſible attention to the right of property, and to afford it the moſt ample protection and ſecurity. Upon theſe, and various other conſiderations, all ariſing from the principles he had ſtated, and the uniform practice of Parliament, his Lordſhip ſaid he ſhould oppoſe the Learned Prelate's motion; and alſo becauſe he did not believe the adopting it would be attended with any degree of expedition whatever. Their Lordſhips were not only to examine evidence, but to hear the arguments of counſel, and from the whole to form their judgment. How could they judge on that which few of them in a Committee above ſtairs would ever hear?

Lord Grenville roſe again, and ſaid, the Committee, being open to every Noble Lord who choſe to attend, was liable to none of theſe objections. When their Lordſhips came to decide on the general queſtion, it would be ſeen what ſanction the Legiſlature had given to the trade. If, indeed, it had given any, whether or not the property of the petitioners was to be deſtroyed by the deciſion. Till the proper time for debating theſe points, he ſhould abſtain from any argument on either.

Lord Thurlow ſpoke ſhortly in explanation.

The Biſhop of London (Dr. Porteus) repreſented the ſmall progreſs that had been made in the examination at the bar. Committees above ſtairs were generally more fully attended, than the Houſe uſually was on the days when the examination of witneſſes on the Slave Trade took place. If any better mode than an open Committee could be ſuggeſted, he would agree to it; but as he had heard of none, he declared he muſt vote for the motion. He admitted that the immenſe property repreſented to be at ſtake, ought to weigh ſeriouſly in their Lordſhips' conſideration; but on the other ſide, they were to conſider fifteen millions of Africans as petitioners at their bar, 80,000 of whom were annually torn from their relations and their country, to be carried into captivity.—['The Duke of Clarence ſaid the Right Reverend Prelate was going into the general queſtion, inſtead of confining his obſervations to the particular queſtion before the Houſe.]—The Biſhop of London ſaid, his obſervations were not only ſtrictly in point, but ſtrictly in order, as he made them to ſhew the neceſſity of avoiding every poſſible delay, which was the queſtion immediately before the Houſe. He could not ſay that he had not formed an opinion upon the general queſtion, but he was open

to conviction, if better information ſhould prove that opinion to be erroneous. If their Lordſhips ſhould ultimately decide that our Weſt India iſlands could not be cultivated without the importation of negroes from Africa, he ſhould acquieſce; but if they ſhould think that the trade was as repugnant to policy as to humanity and religion, he ſhould rejoice.

Lord Hay (Earl of Kinnoul) declared himſelf to be againſt any unneceſſary delay, but ſtill more againſt precipitate meaſures. When ſuch a property was at ſtake, too great deliberation could not be uſed. He therefore gave his voice againſt the motion.

The Earl of Abingdon ſaid, that the Houſe being already fully in poſſeſſion of his ſentiments upon the ſubject at large, he roſe, upon the preſent occaſion, for the purpoſe only of *one* obſervation, and which was this; that this motion being for the *tranſlation* of this buſineſs from the Houſe *below* to a Committee *above* ſtairs, he was not at all ſurpriſed that ſuch a propoſition ſhould come from a Right Reverend Prelate, who, as a philoſopher (of the Briſſotine ſchool too, as the Right Rev. Prelate himſelf had profeſſed), as a politician, a ſcholar, and a divine, muſt neceſſarily know and be beſt acquainted with the nature of *tranſlations* of every kind; and therefore repeated, that he was not at all ſurpriſed at ſuch a motion coming from ſuch a quarter. But, ſaid his Lordſhip, thinking as he did, that, inſtead of *tranſlating* this buſineſs *up* ſtairs, it ought to be *tranſlated* out of the Houſe, or, in a cant phraſe, perhaps better known to their Lordſhips, inſtead of kicking this buſineſs *up* ſtairs (as is ſometimes ſaid of the Lords Lieutenants of Ireland), it ought to be kicked *out* of doors, he ſhould certainly give his decided negative to the motion.

The Earl of Guildford ſaid, he had formed his opinion from a careful attention to the moſt maſterly diſcuſſion in another place that any queſtion had ever received. It was too evident that the examination of evidence at the bar of the Houſe might extend to the period at which another branch of the Legiſlature had decided that the trade ought to ceaſe, and then it would be a very awkward and embarraſſing circumſtance. At a time when their Lordſhips were convinced that the trade was inconſiſtent with policy and juſtice, they might be called upon to allow ſome thouſands more of the unhappy victims of it to be carried away, that the ſyſtem might not be aboliſhed too abruptly.

The Houſe divided on the Biſhop of Rocheſter's motion:

Contents 14—*Not Contents* 42—*Majority* 28.

Adjourned.

HOUSE

HOUSE OF COMMONS.

MONDAY, *March* 10.

Preſented Three Accounts of Loſt and Diſabled Troops; Mercers' Company Accounts; and Petitions againſt Waterman's Bill, from Barnſtaple, for Swanſea Canal.—Ordered to lie on the table.

The Committees on the Glaſs Duty, Bricks and Tiles, Penny Poſt, and the Jerſey Poſt Bills, went through the ſame, and ordered them to be reported.

The Peak Foreſt Canal, Bergne's and Tolkien's Naturalization, and Pelton and Preſton Incloſure Bills, were read a third time, and paſſed.

ALIEN BILL.

Mr. Thompſon obſerved, that an intimation had ſome time ago been given by miniſters, of their intention to bring forward an additional clauſe on the renewal of this Bill, with a view of rendering it more effectual, and to prevent any kind of evaſion, like what they conſidered as having been practiſed in the recent caſe of Count Zenobio; whereas, he underſtood, it was their preſent intention to renew the Bill, without any alteration at all. He wiſhed to hear a word of explanation on the ſubject.

Mr. Dundas acknowledged, that when that intimation was given, he fully intended to have brought forward an additional clauſe; but having further conſidered the ſubject, he was induced to decline that meaſure, deeming it quite unneceſſary. Any attempt to evade the operation of the Act was clearly illegal, and would have no effect. He then moved for "leave to bring in a Bill for renewing the Alien Act;" which was granted.

CASES OF MESSRS. MUIR AND PALMER.

Mr. Adam roſe at five o'clock, and began a ſpeech of three hours and a half's continuance, with a very maſterly and forcible appeal to the Houſe on the importance, the intereſt, and the gravity of the queſtion which he was about to bring before them. He roſe, he ſaid, to offer to the Houſe a propoſition on a ſubject which had already undergone much diſcuſſion:—To review the late proceedings and deciſion of the 31ſt of Auguſt laſt in the Supreme Court of Juſticiary in Scotland, held at Perth, againſt Thomas Muir; and the trial of the Circular Court of Juſticiary, which was alſo a ſupreme court, againſt the Rev. Thomas Fyſche Palmer. From theſe ſupreme courts there lay no appeal, and therefore he conceived it became neceſſary for that Houſe to enter into the

review. He felt great confidence, as well as great anxiety, upon the preſent occaſion—confidence in the cauſe, which, from its gravity, importance, and intereſt, he was ſure would engage them to indulge him with the moſt patient attention; and great anxiety at the idea of having to diſcuſs in a popular aſſembly a queſtion of ſuch magnitude, and which would call for the exertions of much greater abilities than he could lay claim to, and which beſides ought to be tried in a legal Court of Appeal. That reſort was, it appeared, according to eſtabliſhed judicial forms peculiar to the criminal law of Scotland, not to be obtained. On a former day, Mr. Adam ſaid, he had complained of the misfortune that no appeal lay from the criminal courts of Scotland to a higher juriſdiction; and, to prevent that misfortune in future, had framed a Bill, which was, however, by the majority of the Houſe, defeated. At that time he gave notice that he propoſed to inquire if there were not an error in the law, or an illegality in the proceſs, whereby Mr. Muir and Mr. Palmer were found guilty and convicted. He was therefore driven to the neceſſity of agitating it in that place, where, however, he had ſome comfort in ſeeing around him ſo many perſons of great talents of every deſcription—men of great legal abilities without legal practice, as well as men at the head of the profeſſion. Oppoſite to him he beheld a Right Hon. Gentleman (Mr. Pitt), educated as a barriſter in this country; and though, perhaps, not deeply learned in the abſtruſe and complicated ſyſtems of the laws of Scotland, but from his other eminent talents and his thorough knowledge of the judicial principles and conſtitution of England, fully qualified to decide upon a general compariſon. Near him he ſaw, with equal comfort, another Right Hon. Gentleman (Mr. Dundas), whoſe former ſituation as Solicitor General of Scotland, and afterwards as Lord Advocate, added to his birth and education in that country, certainly rendered him perfectly converſant in the juriſprudence of it. Neither of theſe Gentlemen, Mr. Adam imagined, could come forward as opponents to the queſtion, whatever objections they might have to an individual. The delay of this debate had alſo afforded another comfort, ſince by that means he ſhould have an opportunity of hearing a Learned Gentleman (the Lord Advocate), *doctus utriuſque juris*, who preſided at the Court of Juſticiary, and had ſo material a ſhare in the proceedings in queſtion. He could not but conſider that Learned Gentleman's arrival as having very fortunately intervened, becauſe he expected to hear from him a more clear and full explanation of the ſubject, than he could look for from any other quarter. He had great confidence, therefore,

fore, that the diſcuſſion of the queſtion would be made in that Houſe with the effect to be expected from men accuſtomed to form deciſions on ſubjects of juriſprudence, and experienced in the clear and pure adminiſtration of the law of the land.

Mr. Adam ſaid, he would enter into the diſcuſſion with all the coolneſs, temper, and gravity, which would be uſed in a court of law, as if he were arguing it on a writ of error, and pleading for a new trial. Although the Houſe diſliked profeſſional arguments as much as he diſliked to trouble the Houſe with arguments of that nature, he muſt of neceſſity diſcuſs the ſubject more in that manner than he otherwiſe would have wiſhed to do. He was ſenſible of its importance, of its extent, and of its difficulty; but he would not attempt, as Lord Bacon ſaid, "to uſe a number of words to find talk or diſcourſe; to raiſe difficulties; to contradict and confute, but to weigh and conſider" the caſe with candour and with gravity. He aſſured the Houſe he did not bring forward the motion from any idle wiſh to raiſe doubts in the minds of the people, but in order to inquire into what appeared to him to be an abuſe of a moſt alarming nature, and which, if it exiſted, ſhould be corrected. He would endeavour to avoid all technical diſcuſſions, of which a great legal character had truly ſaid, "That forms of law were the tenſes of juſtice."—He would avoid as much as poſſible every thing that was merely technical, though it was obvious that the whole merits of the queſtion (neceſſarily dry in its nature, and therefore in ſome ſort unpleaſing to the ears of men not profeſſionally bred) muſt in a great meaſure depend on the forms and proceedings in the criminal courts and of the law of Scotland; and by theſe the legality or the illegality of the proceedings muſt be determined. His propoſition was, that there ſhould be laid before the Houſe, certain parts of the records in theſe two trials; he ſaid parts of the records, that he might the better point out the particulars to which he meant to draw their attention. Theſe parts were, the indictment, the plea, the verdict, and the ſentence.

There were ſome things, Mr. Adam ſaid, beſides thoſe he had ſtated (which equally concerned both parties), that related to Mr. Muir more particularly, which he deſired to have before the Houſe, and theſe perhaps might not be parts of the record: They were the order of commitment of two witneſſes, William Muir and John Ruſſel, as well as the objection that was made to the jurors, which was over-ruled. Though theſe might not be found on the record, yet Gentlemen were aware that if it was thought right to bring ſuch matter before

the Houſe, the notes of the judges would be ſufficient evidence. Theſe were the ſubjects of his intended motions: But he did not mean to reſt here; though this would be the queſtion immediately before the Houſe, he meant undoubtedly to go farther; he meant from theſe records to queſtion the legality of the ſentence, and upon that doubt, as no appeal could lie from this queſtionable conviction, he propoſed to move for a moſt reſpectful Addreſs to his Majeſty, in favour of theſe unfortunate men. He aſſured the Houſe that in purſuing this courſe, he would endeavour to render the terms of the Addreſs he meant to move for, as reſpectful as poſſible. It was, he obſerved, the duty of every individual and of every body of men, who addreſſed the Throne with a petition for the exerciſe of the prerogative of mercy, to approach his Majeſty with the moſt profound humility and reſpect, being conſcious that it ought to be the care of all men to preſerve that loyal obedience to Majeſty, which, as Judge Blackſtone well ſaid, the conſtitution had aſcertained to the King. He would uſe that eminent lawyer's own excellent words: It had been the care of their anceſtors, "not to make the Monarch appear in any of the invidious parts of the conſtitution; but in thoſe works in which the nation only ſee him engaged perſonally; works of legiſlature, magnificence, and mercy." By the courſe which he propoſed to himſelf, he hoped he ſhould maintain the trueſt reverence for the Throne; ſince he moved only for the exerciſe of his Majeſty's moſt ſhining prerogative; and though he queſtioned the legality of the ſentence, and the ſoundneſs of the diſcretion, yet his Addreſs to the Throne ſhould be perfectly conſiſtent with decorum, and ſuch as he had deſcribed. This was the nature of his intended proceeding, and in the diſcuſſion of the ſubject he ſhould conſider himſelf bound to maintain the following propoſitions:

Firſt, That the crimes ſet forth in the indictments againſt Thomas Muir and Thomas F. Palmer, are what the law of Scotland calls *leaſing-making*, that is, uttering words or publiſhing matter tending to breed diſcord between the King and his people. This is properly a miſdemeanour in the nature of a public libel, tending to affect the ſtate, or diſturb the government; and theſe indictments charge no other crime whatever.

Second, That the puniſhment of tranſportation cannot, by the law of Scotland, be legally inflicted for the crime of *leaſing-making*; the Act of Queen Anne, 1703, c. iv. having appropriated to that crime the puniſhment of fine, impriſonment, and baniſhment only, and that the annexing the pain of death to the return from ſuch tranſportation, was an aggravation

gravation not warranted by law; the puniſhment of death being expreſsly taken away by that ſtatute, and no ſtatute having paſſed ſince that time, which varies or alters that law: And

Thirdly, That if the acts charged in the indictments do not conſtitute the crime of *leaſing-making*, or public libel, the indictments charge no crime known to the law of Scotland: 1ſt, becauſe there is no ſuch crime known to the law of Scotland at common law, as real ſedition conſtituting a diſtinct and ſeparate offence; 2d, becauſe if there is ſuch a crime, theſe indictments do not ſtate it; 3d, becauſe, if there were ſuch ſeparate and diſtinct offence in Scotland at common law, it would be contrary to law to puniſh that offence by tranſportation, and not warranted by law to inflict the pain of death for returning from ſuch tranſportation. Theſe were the propoſitions which he thought it incumbent upon him to lay down and to maintain. At the ſame time he conceived, that if he made out the firſt, he made out his whole caſe, ſince that would comprehend the illegality.

An indictment in Scotland is laid in the form of a *ſyllogiſm*: Its *major* contains the *corpus delicti*, of which the *minor* ſtates the facts, and the *concluſion* or *conſequence* is, that the *major* ſhould be proved by theſe facts. The indictment of Thomas Muir ſtates in the *major*, that adviſing and exhorting perſons to purchaſe and peruſe ſeditious and wicked publications, and to diſtribute and circulate them, &c. &c. are crimes of a heinous nature; and the facts ſtated in the *minor* are, that he did make ſpeeches in certain ſocieties and meetings, and did adviſe perſons to buy and read Paine's Rights of Man, and did circulate the ſame. It appears then, that the major of this propoſition hold out no other crime than that of *leaſing-making*; and all the facts ſtated in the minor propoſition of his indictment, aggravated as they are by the terms of the major, go no further than the crime of *leaſing-making*.

Mr. Adam ſaid he held in his hand one of three trials of Thomas Muir, that had been printed in Edinburgh; the one printed for William Creech he would refer to, becauſe it was evidently written againſt the priſoner. If there ſhould be any objections offered to the quotations which he ſhould think it neceſſary to make from that pamphlet, he gave notice to the Houſe that he held in his hand official copies of the record, with which he had been furniſhed from Scotland, and to which he ſhould be ready to refer. He ſaid, that by the beſt authorities on the law of Scotland, there was no ſuch thing as the ſort of ſedition which the indictment here affected to hold out. The law of Scotland underſtood from all the facts mentioned

mentioned in this indictment no other crime than that of *leaſing-making*. What *leaſing-making* was is the next thing to be underſtood. Lord Chief Juſtice Clerk, in pronouncing ſentence, decreed it for exciting diſcontent, for creating rebellion, and diſſeminating ſeditious publications. To excite diſcontent, or diſſeminate ſeditious publications, is only a libel, and may therefore be tried as *leaſing-making*, and judged accordingly; but to create rebellion is treaſon, and treaſon does not require any arbitrary puniſhment, being *crimen per ſe*, and liable to be judged by the law provided in caſes of treaſon. In treaſon, too, no man can be an acceſſary, but all are principals, and therefore that part of the ſentence is contradictory. Sir George Mackenzie, who wrote towards the latter end of the laſt century, who was ſo cloſely connected with the Duke of Lauderdale, and the apologiſt for all his mal-adminiſtration, was an authority that the Houſe would not be diſpoſed to diſpute, inaſmuch as it would not be conceived that a writer of Sir George Mackenzie's character, connexions, and views, would give the moſt favourable interpretation of the law in favour of the liberty of the ſubject. What does he ſay on the ſubject? That a commotion of the people tending to diſturb the Government was treaſon, but if a commotion was excited upon any private account, it was in Scotland called a convocation of the *lieges*. Sedition was never laid as a *crimen per ſe*, but as it was connected with other crimes of which it was an aggravation. The *ſeditio regni* was puniſhable as treaſon, and was always ſo laid in the indictment, and the relevancy of the crime to infer the puniſhment of treaſon was always firſt found by the court. Here then was an authority which came home directly to the matter in iſſue, in ſupport of his aſſertion, that the crime charged upon Muir and Palmer was no other than that deſcribed by the Act of Queen Anne to be *leaſing-making*. No convocating of the people without arms, and without an overt-act of rebellion, was treaſon, and they knew of no other ſort of ſedition in the whole hiſtory of the law of Scotland. To be preſent at meetings, ſays Sir George Mackenzie, was not relevant to infer the puniſhment of treaſon, even though the meetings might be of a tumultuous nature. There could be in ſhort no real ſedition without actual rebellion, and every thing ſhort of this real ſedition was by the Act of Queen Anne defined to be *leaſing-making*, and reſtricted to an arbitrary puniſhment. Mr. Palmer's caſe, Mr. Adam obſerved, was different from that of Mr. Muir's, as Mr. Muir's reſted on ſpecialities, while Mr. Palmer's had not the ſmalleſt foundation for ſaying that he ſtood charged with real ſedition. Tranſportation cannot

cannot apply to his offence; and if tranſportation cannot apply, then the indictment does not fall within the ſtatute.

The puniſhment ordained by that law brought him to his ſecond propoſition: It was confined, as he had ſaid, to three kinds, fine, impriſonment, and baniſhment; and baniſhment certainly did not mean tranſportation to a particular ſpot. A ſhort hiſtory of the Act of Queen Anne would give them a maſter-key to unlock the myſtery of all this proceeding, which he called queſtionable legality, and unſound diſcretion.—It was an act founded on the *Claim of Right*, which was the charter of the people of Scotland, and correſpondent to the Bill of Rights in England, and therefore it ought to be conſtrued liberally in favour of the people: It was a penal ſtatute, and for that reaſon ought not to be interpreted ſtrictly as to the letter of it. There was, he obſerved, a great advantage in knowing the hiſtory of an Act, as the means of expounding its intention; and it was a curious fact, that the Claim of Right, from which this law was derived, contained this important clauſe; that the "cauſing to purſue and forfeit perſons, upon ſtretches of old and obſolete laws, upon frivolous and weak pretences, upon lame and defective probations, as particularly the late Earl of Argyle, are contrary to law." If England could boaſt her Ruſſel and her Sydney, Scotland alſo could boaſt her Argyle and her Salton. The Earl of Argyle was indicted for high-treaſon and *leaſing-making*, on account of his conſcientious explanation of his ſubſcription to an unconſcientious teſt. The hiſtory of his caſe was not unknown to Gentlemen: Hume ſays of it, "Argyle was much ſurpriſed, a few days after, to find that a warrant was iſſued for committing him to priſon; that he was indicted for high-treaſon, leaſing-making, and perjury; and that from theſe innocent words an accuſation was extracted, by which he was to forfeit honours, life, and fortune. It is needleſs to enter into particulars, where the iniquity is ſo apparent: Though the ſword of juſtice was diſplayed, even her ſemblance was not put on, and the forms alone of law were preſerved, in order to ſanctify or rather aggravate the oppreſſion." The Earl of Argyle was accuſed and convicted of treaſon and leaſing-making in 1681, but had the good fortune to eſcape. The horror excited by this caſe induced the people of Scotland to inſert the memorable clauſe, which he had juſt read in the Claim of Right, and under this they thought themſelves ſecure. Eleven or twelve years afterwards, however, in 1701, on the memorable occaſion of the ſettlement at Darien, a number of proſecutions were begun on old and obſolete laws, which rouſed the Parliament, and they paſſed a ſtatute, the Act of Queen Anne (ſtated in Arnot's Criminal

Criminal Trials, p. 91.) immediately before that on *leaſing-making*, confirming the claim of right in more preciſe terms, and declaring it to be treaſon to counteract any part of it. Mr. Fletcher of Salton, who had returned from baniſhment, helped to prepare it. [Mr. Adam read ſome Extracts from the Act.] Immediately after this memorable ſtatute, was paſſed the ſtatute declaring that public libel was merely *leaſing-making*, and was ſubject only to one or other of the three puniſhments which he had already mentioned. How important to the true underſtanding of this ſtatute was the ſhort hiſtory he had ſtated? It clearly ſhewed the intention of the Scotch Parliament—which did not repeal the crime, but only changed the puniſhment; a perſon convicted of the crime was no longer to incur the pain of death, but the pain of fine, impriſonment, or baniſhment, and theſe puniſhments were intended to be mild, and to be favourable to the ſubject. This act remained in force to the preſent day: Nothing had happened ſince to alter, or to change the ſtatute. The queſtion was, Whether the word Baniſhment and the word Tranſportation were ſynonimous. In his mind nothing could be more diſtinct; though the ſame in ſubſtance, he apprehended them to be extremely different in the abſtract: Though tranſportation might be conſtrued baniſhment, the word Baniſhment could not be uſed for Tranſportation; and he hoped he ſhould be able to ſhew the Houſe, that through the whole ſeries of the Scottiſh hiſtory, from the loweſt caſe of mere precedent up to the higheſt inſtance of legiſlative act, there was nothing to countenance the idea that the word Baniſhment in this act could infer tranſportation. Let it be recollected that the act intended to mitigate the puniſhment, and if there was any doubt about the conſtruction of the term, the Judges were bound, by ſound diſcretion, to take it in the moſt lenient ſenſe. To be baniſhed from one's country,

> "Around the world abroad to roam,
> Far from his native ſeat and pleaſing home,"

has always been conſidered as a ſevere and heavy ſentence; but to be tranſported beyond ſeas to a particular ſpot—to be impriſoned in a diſtant and deſolate land—to be doomed to the moſt deſpotic diſcipline and ſervitude, was ſuch an aggravation of the puniſhment as did demand the moſt explicit and clear authority for its juſtification. The diſtinction between baniſhment and tranſportation was clearly known in all countries: It was known to the Roman law; it is known to the Engliſh law; and, in Scotland, it was of neceſſity clearly and perfectly underſtood and acted upon. The diſtinction in the Roman

Roman law is the ſame as is underſtood by the terms of *relegatio*, and the *prohibitio et interdictio legis*; the one being perpetual, the other not. This has been alſo conſtrued in the ſame manner in Scotland, where, in the ſentence of criminals, it has been expreſſed *baniſhment to the Weſt Indies*; and in others *ſimple baniſhment*; and of this there are variety of proofs. Baniſhment was inflicted, but not tranſportation. Why? Becauſe baniſhment was practicable, but tranſporation was not. Every condemnation muſt ſuppoſe a competent juriſdiction. Scotland had no colonies peculiar to itſelf, to which it could tranſport; it had no juriſdiction abroad, and it therefore could not inflict that ſpecies of puniſhment. "With us," ſays Sir George Mackenzie, "no judge can confine a man whom he baniſheth to any place without his juriſdiction, becauſe he hath no juriſdiction over other countries, and ſo cannot make acts nor pronounce any ſentences relative to them." This was not merely the opinion of the great law authorities of Scotland, it has alſo been formed by deciſions of the court. There was, Mr. Adam ſaid, a memorable caſe before a Scotch ſheriff, wherein he pronounced the ſentence of tranſportation. The caſe was appealed to the Court of Seſſion, and the Right Hon. Gentleman oppoſite to him (Mr. Dundas), then Solicitor General of Scotland, argued againſt the appeal, and the preſent Solicitor General of Scotland for the Pannel. The reſult was, the court decided that the ſheriff had not the power of puniſhing by tranſportation, as he had no power out of his own ſhire. They however approved of the conviction, and they baniſhed the man forth of Scotland, with certification that on his return he ſhould be puniſhed with tranſportation; thus declaring their own ſenſe of the difference between baniſhment and tranſportation. Nothing could be more glaring than this fact; for they thus, in the face of all the world, had decided the general diſtinction between the one and the other.—The whole ſeries of the ſtatutes of Scotland ſerved to confirm this interpretation. Proof was alſo to be adduced from the ſtatute laws of James the Firſt of Scotland, down to 1609, in the reign of James the Firſt of England; and by the ſame manner of expreſſion were the ſame opinions to be formed from the act of Robert the Second of Scotland down to 1609 and 1670, whereby baniſhment was evidently clear expulſion, and the judges could not confine criminals to any particular ſpot without juriſdiction over a foreign country. The law of 1609, which puniſhed libels with baniſhment, was the only law on the ſubject before the act of 1703; and as Scotland had no colonies until the ſettlement of Darien, it was clearly underſtood that it was ſimple

baniſhment only, and not tranſportation. In 1670 the Darien colony was one act where tranſportation began to be admitted. Some fanatics, who had been brought to puniſhment under the Duke of Lauderdale and Archbiſhop Sharp, were conſigned there: Not but that tranſportation had been inflicted before for rebellion againſt the ſtate in religious controverſies. It was certainly true that there were many inſtances of tranſportation or of baniſhment to the Weſt Indies, but they were all ſtatutory; and they were all paſſed upon crimes that were capital. Wherever the words were added, and which were borrowed from England, they gave a ſeverer meaning to the original Scotch term of baniſhment, and where they were not ſuperadded, they were not to be implied. Tranſportation was firſt introduced by Charles II. as Biſhop Burnet relates, when he ſtates that the King wrote to Scotland, that neither death, tranſportation, nor other capital puniſhments, ſhould be inflicted for *leaſing-making* in future; and Sir George Mackenzie, Charles the IId's apologiſt, endeavours to give a colourable pretext to the act entitled, "Againſt ſuch as ſhall refuſe to depone before the Privy Council againſt delinquents:" One clauſe condemns thoſe who ſhall refuſe or delay to depone, to be baniſhed to his Majeſty's plantations in the Weſt Indies: But in the ſame act there is another clauſe, that no man's declaration ſhall infer againſt himſelf any other penalty than ſimple baniſhment.—Thus even the ſtature made a diſtinction between the two. As to all the acts of the infamous Privy Council of Scotland, which could only be paralleled in iniquity by the Star Chamber in England, it was impoſſible for him to ſay a word, as they could not be produced or referred to: They were hidden in the darkneſs with which oppreſſion and iniquity always clothed themſelves. But with reſpect to the ſentence of the Court of Juſticiary, he would take upon himſelf to ſay, that there was not a ſingle inſtance of tranſportation paſſed upon any one offence that was not in itſelf a capital offence, and he would be bold to challenge any Learned Gentleman to prove that there was ſuch an inſtance. He could not have looked with his own eyes, but he had been favoured with very accurate notes, and he gave the challenge to the Learned Gentlemen on the oppoſite ſide of the Houſe, that in the whole of the Records of the Juſticiary Court of Scotland they ſhould produce a ſingle inſtance: He truſted to the induſtry of Gentlemen of moſt accurate inveſtigation, under directions the moſt preciſe.

There were three kinds of capital caſes in Scotland upon which tranſportation had been inflicted; the firſt were capital puniſhments mitigated to tranſportation, and ſuch were the capital

capital crimes of murder, notorious adultery, rape, diſturbing a man in his dwelling, &c. &c. theſe crimes, all capital by the law, were frequently mitigated to tranſportation by the diſcretion of the Judges. There was a long liſt of theſe crimes, which it was not neceſſary for him to repeat.

There was a ſecond claſs of capital crimes where tranſportation was alſo uſed as a mitigation, and theſe were the caſes in which, before the verdict was paſſed, the proſecutor agreed to reſtrict it to an arbitrary puniſhment. Gentlemen not acquainted with the Scotch law would underſtand that this was a very common practice in their trials.

There was a third claſs of capital crimes alſo, where the proſecutor and priſoner conſented to tranſportation, and which compact was a ſpecies of mitigation or pardon. In all theſe caſes the Houſe would ſee that in all the three claſſes of capital crimes mitigated, capital crimes reſtricted to an arbitrary puniſhment, and capital puniſhments avoided by compact, tranſportation was paſſed only as a mitigation of a higher puniſhment. It conſtantly deſcended downwards; but could not be ſtated in any caſe to have aſcended upwards.

In fact, there was not a ſingle caſe in the whole hiſtory of the practice of the Courts of Juſticiary, of the ſentence of tranſportation being paſſed on any man whoſe crime did not infer a capital puniſhment. Now the act of 1703 having made *leaſing-making* what we call a mere miſdemeanour, and having declared that it ſhould no longer be capital, it certainly was not competent for the court, in ſound diſcretion, to paſs a higher ſentence than the law ordained. The act of 1609, which was a law for puniſhing ſcandalous libels againſt the people of England—an odd law if we were to judge by the manners of the preſent age, when abuſing the Scots was more generally the practice—condemned the offence to baniſhment or more rigorous corporeal pain. Baniſhment there could only mean, baniſhment out of Scotland; for then Scotland had no juriſdiction abroad: And the act of 1703, being the next, took away all corporeal pain, and was profeſſedly a mitigation of the act of 1609. But it would not have mitigated the act of 1609, if what was baniſhment in the firſt could be interpreted into tranſportation in the ſecond. And that the direct contrary was the caſe, that the act of 1703 mitigated the former ſtatutes, was manifeſt from the opinions of the greateſt lawyers recently after the paſſing of that act. In 1715, and 1716, proſecutions were entered into againſt perſons for diſtributing Jacobite medals among the Faculty of Advocates. Among others, Mr. Graham, Alexander Crawford, and another, were tried, one of them a perſon whoſe family had

ſince certainly ſhewn invariable loyalty to the family on the Throne. The indictments were laid upon the ſtatutes, and Sir David Dalrymple, then Lord Advocate, ſtated in his information, that the laws againſt *leaſing-making* were anciently odious, but, ſince the happy Revolution, that grievance, among many others, has been removed: What was uſeful in the acts of *leaſing-making* is preſerved by the act of 1703, *the bitterneſs of the puniſhment is reſtrained*, and *ſo* the odiouſneſs of the law is taken off. The offenders only ſuffered impriſonment, and paid a fine of 50l. In the riot of Dundee, which happened on the acceſſion of George I. ſome of the rioters were taken; yet they ſuffered no other puniſhment than fine and impriſonment, and the incapability of holding any public office. The next conſideration was, to inquire, whether the laws paſſed ſince the Union would change the effect of this ſtatute of 1703. The 4th of George I. ſpecially excludes Scotland; the 6th of George III. recogniſed what was formerly the law of Scotland, but did not go an iota further than the 4th of George I. had gone. The general definition of crimes was different in the two countries.—There was no ſuch thing as what we call miſdemeanour; there was no ſuch thing as ſedition at common law. Sir George Mackenzie has obſerved, that their anceſtors were too wiſe to admit of the *paritas rationis*, and of courſe there could be no analogy. In caſes of mobbing and ſubornation of perjury, the miſdemeanour, or leaſing-making, is only puniſhed with fine, impriſonment, and infamy. So that, as he had before ſtated, it was evident that all the ſentences of tranſportation go ſolely upon capital offences. To the year 1737, in caſes of return from baniſhment, the criminal incurred ſentence of tranſportation; and the 6th Geo. III. being a mere Act of Police, cannot vary the Penal Code of Scotland. The 25th of Geo. III. the act made on the ſpur of a neceſſity, in conſequence of the loſs of America, certainly did not, either by its ſpirit or letter, change the body of the Scotch law; it ordained the tranſportation of felons, to ſuch place as his Majeſty in his council ſhould think fit, but it did not ordain, that what before was a leſs puniſhment ſhould from thenceforward be a greater. Surely Parliament would not ſay, that this ſtatute, which merely went to enable the King to ſend perſons to any place beyond ſeas, in conſequence of our having loſt America, could be conſtrued to alter a ſtatute to which it even does not allude: It muſt be conſiſtent with itſelf, and as it neither affects to repeal or alter the former ſtatutes, it goes only to declare, that where perſons were ſubject to tranſportation, the King in council ſhall have the power to tranſport them where he pleaſes. To ſhew the very little accuracy

curacy that there was in this Act of Parliament, he ſtated that it contained the word "felon," a word not known to the Scotch law, and which the Scotch ſtatutes had never mentioned. This Act certainly did not, either by its ſpirit or letter, change the body of the Scotch law. Between this Act too, and the 24th, there is ſome variation on the words of Baniſhment beyond the Seas; and Gentlemen ought in conſequence to conſider it in two points of view, if they ſuppoſe it to have any relation to the ſentence of Mr. Muir: Firſt, in the alteration of the law of Scotland; for thus he may return to England, as there is no Scotch juriſdiction in a foreign country without the legiſlative authority; and ſecondly, by baniſhment beyond the ſeas, refer to the ſtatute of Queen Anne, and it would be found nearly to enforce expatriation. According to the Act of Parliament, if the Legiſlature interfere, it is felony to return to Great Britain or Ireland before the ſentence of tranſportation be expired; whereas, according to the record, Ireland is omitted: And thus the criminal, who is not ſuppoſed to be converſant in the various Acts of Parliament, but to abide by the record, may eſcape to Ireland, and thereby incur the penalty of death upon the common plea, '*Ignoratio juris neminem excuſat.*' But the aggravation of death could not be inflicted, unleſs the tranſportation had been adjudged for a capital crime; nor has tranſportation been ever decreed but in caſes of capital crime. A Court of Juſtice cannot decree it unleſs the Legiſlature give the power. The Act of 1703 ſtood then the laſt and only one upon which the crime of *leaſing-making* could be tried; and that crime of *leaſing-making*, the crime of Muir and Palmer, was ſubject by that ſtatute to fine, impriſonment, or baniſhment only.

He came now to his third propoſition, that if the indictments did not charge the crime of *leaſing-making*, they charged no other crime; for, as he had ſaid, ſedition was no crime at common law in Scotland. Mr. Adam declared, that he could not hear without horror, that a doctrine had been ſet up in juſtification of the proceedings in Scotland, that "as new manners made new crimes," the Court of Juſticiary was ſupreme, and with review, without appeal, could make law applicable to the occaſion. It was this ſort of doctrine that had diſgraced the Star-Chamber and the High Commiſſion Court. If it was poſſible to conceive that any Court of Judicature in this country, that boaſted of its freedom, and of the pure adminiſtration of criminal juſtice, could have ſuch power, he could only ſay that it violated all his ideas of the conſtitution of this country, and was an outrageous libel upon common ſenſe.

ſenſe. That ſuch a declaration had come from the ſeat of juſtice, he had heard, indeed, but he muſt diſbelieve; ſure he was that it demanded a very ſtrict and preciſe animadverſion. The old laws with reſpect to conventicles were clearly done away, and ſo perhaps were the burgh acts; and it was a queſtion, whether, when the Engliſh ſtatutes againſt treaſon were made to extend to Scotland, they did not abrogate the old laws of treaſon. It was manifeſt, he thought, that they abrogated the treaſon laws of Scotland, where thoſe treaſon laws varied from thoſe of England. It was treaſon in Scotland, for inſtance, for a perſon to kill another whom he had in truſt, as a ſchoolmaſter his pupil, or a guardian his ward; but though on the extenſion of the treaſon laws of England to Scotland, this ceaſed to be treaſon, it was ſtill a *crimen in ſe*; it was ſtill the crime of murder. It was the ſame thing, the ſame analogy would apply to the crime of ſedition; the Engliſh law could make that treaſon in Scotland which was not ſo in England.

But Mr. Muir and Mr. Palmer were not charged in the indictment with any other than that crime which in England is the miſdemeanour of libel; and he believed there was hardly one man that heard him, that would deny that their puniſhment exceeded all the bounds of ſound diſcretion. There was a phraſe in the Scotch law which anſwered to what in Engliſh law was called acceſſary; the term was, *art and part*. But by the Scotch law the principal may be charged as *art and part*. The priſoner is obliged to deliver in the liſt of witneſſes that he intends to call to his juſtification a certain number of hours previous to his trial; and yet the proſecutor is entitled to prove *art and part* circumſtances, although thoſe circumſtances be not contained in the indictment; and, in that caſe, he is not permitted to call any new witneſſes to his defence againſt ſuch new charge. This might be conſiſtent with the practice of the Courts of Scotland, but no Gentleman ſurely who heard him ſtate it, would think that it was not contrary to all the principles of reaſon and juſtice. This ſingular proceſs was practiſed in the caſe of Mr. Muir; it was proved that he had recommended "Flower on the Conſtitution of France," and that he had uttered ſome expreſſions about reforming the abuſes in the Courts of Law and Juſticiary, although neither of theſe had been articulated in the indictment. Mr. Adam contended, that by *art and part* the indictment could merely mean *art and part* of the crimes libelled, and not of any other crimes; but the Lord Advocate ſaid, that under the terms of *art and part* he could prove the ſedition of the Pannel's whole life, and

draw

draw into it every act of every kind. So he found had been the declaration on the trial. If ſo, he muſt aver that the man had not had a trial that ought to ſubject him to the dreadful puniſhment paſſed upon him in the ſentence. It was ſaid as an imputation upon the criminal law of England, that it was not neceſſary to name the preciſe day upon which a crime was committed, but the fact was, the law required that they ſhould both name and prove a day. What, however, was the practice in Scotland? They were not obliged to confine themſelves to a day; nay, after taking, in the caſe of Mr. Muir, the period of months, for his conduct during all which time he was to prepare and apply his defence, they extended their evidence to a period ſtill more diſtant, and ſaid, they had a right to take in his whole life, and he was denied the power of bringing evidence in his defence, becauſe he had not previouſly given a liſt of witneſſes to refute charges of which he had never heard. I aſſert then, ſaid Mr. Adam, that ſubſtantial juſtice has not been done to this man; that there is ground for a new trial; and that the ſentence of tranſportation to Botany Bay was illegal, arbitrary, and unwarrantable. If they, therefore, had either the feelings or the hearts of men, they would not depart the Houſe that night without voting an Addreſs to the Throne for mercy.

The next great objection to the fairneſs of the trial was that which related to the jury. A ſociety was formed in Scotland, at Goldſmiths'-hall, reſembling that at the Crown and Anchor, in conſequence of the inſtitution of certain ſocieties called Friends of the People, of the publication of Paine's Rights of Man, &c. Of the Friends of the People, he ſhould content himſelf with ſaying, that though many reſpected friends of his were advocates for a reform of the repreſentation of the people in Parliament, he had no opinion common with them on the ſubject, he did not think that it was either a wiſe or a ſalutary meaſure to alter the repreſentation in that Houſe; and of Paine's Rights of Man he ſhould only ſay, that he had been favoured with the reproach, in company with two Right Hon. Gentlemen over the way, of having diſapproved of his doctrines. This ſociety at Goldſmiths'-hall had reprobated in ſevere terms Paine's book, and had excluded Mr. Muir from their ſociety on account of his approving of that book. Gentlemen of this ſociety were the jury, and an objection was made by Mr. Muir, a ſtrong, a valid objection, that they were prejudiced men, had declared their prejudice, and had acted upon it. It was an objection common to the law of Scotland. There was a memorable inſtance in the trial

of

of Lord Balmerino in the year 1631. He objected to Lord Marishal and Lord Dumfries, as having expressed themselves in his disfavour, and he put them to their oath—they took it. He made the same objection to Lord Blantyre, who refused to take the oath of his not having spoken in his disfavour, and he was rejected. With a precedent so strictly in point before him, they saw the Lord Justice Clerk repel the objection, on the ground that it would go so far as to exclude every man who has taken the oaths to Government. Good God! exclaimed Mr. Adam, what must be the feelings of mankind, on seeing so little regard paid to the decency of justice, and the fate of a fellow-creature! The very men who had declared Mr. Muir to be seditious, and who had acted so far against him as to exclude him a society, were yet held to be fair jurors!

The treatment in regard to the witnesses was equally adverse to all justice. John Russel, a witness for the defendant, was sentenced to three weeks imprisonment in the Tolbooth, because at the very commencement of his examination he had not been able to mention the names of the persons who had spoken to him on the subject of the trial. Mr. Adam pointed out the legal distinction between the credibility of a witness and his competency. The Court had no right to withhold the evidence of a witness who was competent on account of prevarication; they ought to send it to the jury, who are to judge of the credit that is due to it; but here they chose to deprive the prisoner of the evidence of his witness altogether. Mr. Adam said, he would beg leave to ask any of the Learned Gentlemen opposite, whether they would have sent a man to prison for prevarication, when the whole of his testimony was a mere matter of credibility? The whole affair was similar to the four deer. Another witness, William Muir, who from motives of conscience hesitated at taking an oath, was ordered to be imprisoned, perhaps, for ever! It was monstrous! It was impossible to speak of such an act without horror.

After having thus explained the circumstances of the trial, and after the House were apprised of the extraordinary proceedings on this trial, they were yet to consider the most material part of the whole transaction, the discretion of the Court in the sentence which they passed on the prisoner. He did not wish to impute any guilt to the learned Judges who exercised that discretion, though he thought it too severe and misused, and lamented that so great a power should be deposited in the hands of any individual. He said, he would endeavour to discuss the proposition with as much temper as he was master of, though he feared he might not always preserve that equanimity

mity he wiſhed to manifeſt. It was a ſubject that would warm and melt the coldeſt and the hardeſt heart. It was with the utmoſt reluctance, he declared, that he ventured to agitate the conduct of a court of juſtice in that aſſembly; he felt the delicacy and the difficulty of the ſubject very ſufficiently; and he wiſhed that the Houſe had granted, what in his opinion ought yet to be done, the right of appeal, ſo as to bring the ſeveral queſtions forward in a different ſhape. He had avoided throwing any doubt on the ſubject of their conduct on any former day, becauſe he thought it right that the queſtion ſhould be examined to the bottom, and that before a doubt was even hazarded, Gentlemen ſhould be made acquainted with all the facts upon which it aroſe. Having examined the whole proceeding with the moſt anxious attention, he muſt declare in the moſt grave and ſolemn manner, that he did doubt and queſtion the ſoundneſs of the diſcretion exerciſed by the Court, in the ſentence which they had paſſed. What was the crime? Miſdemeanour. What was the puniſhment? Tranſportation, and that a ſpecies of tranſportation the moſt aggravated and moſt afflicting known to the law. Let Gentlemen conſider what would have been the puniſhment paſſed in this country, on a perſon convicted of a ſimilar offence. What would have even been the puniſhment of Mr. Paine himſelf? He might certainly ſay, that it would have been no more than fine and impriſonment; for though the pillory had been ordered in ſeveral caſes, it had not lately been executed in a ſingle inſtance. Such would have been the puniſhment in England. But in Scotland they ſentenced ſuch convicts to the moſt ſhocking ſpecies of tranſportation. Tranſportation—not to America, not to a cultivated ſociety, to an eaſy maſter, and to kind treatment, but to a deſolate iſland, an inhoſpitable deſert at the extremity of the earth, where every thing is in a rude and barbarous ſtate, where they are deprived of all communication with intelligent beings like themſelves, where they can find no ſocial pleaſure, not any comfortable improvement in letters; but are condemned to live with ruffians, whom the gibbet had ſpared, and under a ſyſtem of deſpotiſm rendered neceſſary for the government of ſuch a tribe! They have alſo to undergo the fatigues of a long voyage, in which, by the returns upon the table, many have periſhed, to an inhoſpitable country, where they are doomed to penury and want. He illuſtrated the horrors of ſuch a puniſhment by a beautiful paſſage from the philoſophical Gibbon, and ſaid, that though puniſhment ought not to be different for different claſſes of men, yet as the object of puniſhment was the prevention of crimes, they ſurely ought to take care not to wound the feelings

of mankind by exerting the utmoſt graſp of diſcretion to more than it could reach, or more than it could hold. The mind of man, ſhuddering at a diſproportionate ſentence, could feel no reſpect for the adminiſtration of juſtice ſo ſtrained, and the hand of authority was therefore weakened and palſied by the act. In the exerciſe of ſound diſcretion it was natural to think that the Court would have looked for examples the moſt congenial to the feelings of the country. An article in the Union ſhould have guided their diſcretion; the practice of England ſhould have guided their diſcretion; unleſs it was meant that their authority was to be the ſtalking-horſe for extending the ſame ſort of ſeverity to the practice of the criminal law of England. They ſhould have remembered, that as the two countries were bound together by political and moral ties, that their allegiance was the ſame, their duties the ſame. They ſhould have taken care that a puniſhment ſo outrageouſly different from that of the one country, ſhould not have been ſuffered in the other. It was neceſſary to the ſafety of England that this ſhould have been done. Even in the moſt violent caſe that England exhibited, that of Biſhop Atterbury, our milder adminiſtration of juſtice thought only of an act of pains and penalties. Inſtead of this, the Court of Juſticiary in Scotland had thought fit to have recourſe to the deſpotiſm of the Romans, when the Romans had ſunk under the tyranny of an individual. It was with horror that he ſaw them referring to the practice of the Roman law, under Nero and Domitian, inſtead of the mild practice of the neighbouring country. One of the Judges had quoted the doctrine from the Roman law, and he took it for granted that the Latin quotation was correct, as the writer of the pamphlet would hardly have known it. He ſaid that by the Roman law, *Actores ſeditionis et tumultûs, populo concitato, pro qualitate dignitatis, aut in furcam tolluntur, aut beſtiis objiciuntur, aut in inſulam deportantur.*—"We have choſen," ſays the learned Judge, "the mildeſt of theſe puniſhments."

Having gone through the whole of the caſe, Mr. Adam made a ſhort, but warm and elegant concluſion, on the motives that had induced him to bring forward the buſineſs. He ſaid, that after having exhauſted his own ſtrength, as he feared he had exhauſted the patience of the Houſe, he muſt beg leave to ſtate, that he had been induced to this diſcuſſion, not from motives of profeſſional intereſt; he had no perſonal knowledge of the ſufferers; not from perſonal prejudice to the Judges, for he reſpected their characters; not from his love of Paine's principles, for he had frankly declared his opinion reſpecting them; but becauſe he conſidered the diſtribution of criminal

juſtice

juſtice as the beſt defence of public liberty: He did it to ſave the nation from the diſgrace and miſchief of individual oppreſſion, and becauſe he believed that the perverſion of criminal juriſprudence was likely to be the forerunner of anarchy on the one ſide, or of deſpotiſm on the other. Feeling for the honour of the country, for the purity of criminal juriſprudence, for the ſafety of the Britiſh conſtitution, he had thought it fit to bring before the Houſe a proceeding which had wounded and tortured the feelings of conſiderate men; and he propoſed to correct the dangerous tendency of this proceeding by the moſt reſpectful means; it was a becoming privilege in the Houſe to petition the Crown to exerciſe the moſt divine of its prerogatives, that of mercy, which "bleſſeth him that gives and him that takes," and by thus procuring ſeaſonable redreſs, to quiet the minds of the people, and to preſerve ſacred and inviolate the beauty of that conſtitution which he hoped would deſcend unimpaired to the lateſt poſterity. He concluded with moving, "That an humble Addreſs be preſented to his Majeſty, to beg his Majeſty would give directions that there be laid upon the table extracts from the book of a journal of the Supreme Court of Juſticiary in Scotland of the trial of Thomas Muir, ſo far as related to the indictment, &c."

Mr. Fox ſeconded the motion.

The Lord Advocate of Scotland, in reply, ſaid, this was as ſerious a ſubject as ever came before that Houſe for its diſcuſſion, for it involved the conſideration of the proceedings of a Court of Juſtice, not the legality of them only, but alſo the diſcretion of the exerciſe of their power; ſuppoſing their proceedings to have been ſtrictly legal, in the whole of which he muſt ſay, that not the Judges of the Court of Juſticiary only were to blame, if blame was due on any part of the proſecution of theſe trials, but he muſt alſo bear his part of the cenſure, and muſt have his apology to make; and if the Learned Gentleman who opened the debate found it neceſſary to claim the indulgence of the Houſe while he entered on the various topics of this ſubject, he muſt in that reſpect follow his example. In the part that he had taken in theſe proſecutions, he declared that he had followed the ſtrict and fair, and to his mind the only mode that was pointed out by the criminal law of Scotland. He ſhould not enter upon the character of the Judges in the Court of Juſticiary, further than to ſay, that they were men eminent in their characters for their profeſſional knowledge and for private integrity, men who had made the ſtudy of the law of their country almoſt the only ſtudy of their lives, and in which they had acquired the higheſt reputation. But if, after the queſtion had been fully,

fairly, and ably argued, on the part of the defendants, by one of the moſt able lawyers (the Dean of Faculty) in the country, they were wrong in their deciſions upon the ſubject, they were, he was free to ſay, without excuſe; for it had been argued before them over and over again, and they had perſiſted in the opinion which they had originally delivered. He admitted the truth, the juſtice, and the rectitude of the general principles of the Learned Gentleman whom he was about to anſwer, but differed almoſt totally from him in the application of thoſe principles; and with reſpect to the exerciſe of the diſcretion of the Court, as well as the legality of their proceedings, he truſted the Houſe would agree with him, if he ſucceeded in what he ſhould lay down, that the whole conduct of the trials in queſtion was worthy of the approbation of the Houſe. He muſt be permitted to ſay, that the whole of the ſpeech of the Learned Gentleman, as far as it reſpected the proceedings in queſtion, was founded either on a complete miſrepreſentation, a total miſconception, or an entire ignorance of the law of Scotland, and of the practice of the Scotch courts of law; and he truſted that the Houſe would not permit a court of juſtice to be attacked in its character and dignity upon ſlight grounds. It was neceſſary for him to add, that whatever ſome perſons might ſay about aſſimilating the laws of Scotland to the laws of England, he was ſure that much miſchief had ariſen from the ignorance and clamour with which the proceedings of the courts of Scotland had been accuſed. Theſe practices might, if not properly oppoſed, tend to bring the Judges, however high their character, and the law of Scotland, however wiſe and juſt in itſelf, into diſcredit with their countrymen; a circumſtance ſo obviouſly pregnant with the moſt ſerious inconvenience, that he truſted that Houſe would always diſcountenance any proceeding likely to produce ſo miſchievous an effect.

The Learned Gentleman had miſunderſtood the nature of the law which was applied to the caſe of Meſſrs. Muir and Palmer; he had apprehended the law on leaſing-making only had been applied to their caſe: That was not the fact. They were tried upon a charge diſtinct from leaſing-making, which he would endeavour to explain to the Houſe. If it were an error ſo to try them, the miſtake was wholly to be imputed to the perſon that then had the honour of addreſſing himſelf to the Chair. When ſuch daring, profligate, and abandoned proceedings had been entered upon, as thoſe upon which Muir and Palmer had been convicted; when an attempt had been made to ſtir up diſcontent, to diſſeminate wicked, ſcandalous, and ſeditious doctrines, and to introduce anarchy and confuſion,

ſion, it became his duty, for about ſeventeen or eighteen months together, to look particularly at the law of Scotland, and to inveſtigate that part of it which had ſlept in peace for a century, and until very lately, no man thought it would have been neceſſary to call forth, in the manner in which it had been brought into exerciſe; nor would it, but for the acts of men who ſeemed to be endeavouring to ſee how far they could go with impunity. In this ſituation it became his duty, and the duty of thoſe who acted with him, to look into all the old ſtatutes upon theſe points, from the reign of Robert III. down to the Union, and even to the preſent time, and to examine every Act of Parliament in that period, that applied to the queſtion to be determined by theſe trials. With this view they had traced the whole hiſtory of the country; and the act of 1503 was particularly an object of their conſideration. The reſult was, that they were decidedly of opinion that the fact charged and proved againſt Mr. Muir was not ſuch as came under the meaning of leaſing-making, but was ſeparate and diſtinct from that deſcription of criminal offence, becauſe ſimple. Leaſing-making, properly and correctly defined, meant the crime of telling lies of the King, his Nobles, and ſo forth. But the offence of Mr. Muir was that of exciting perſons to acts of ſedition againſt the King and the conſtitution; he therefore found he could not indict him for leaſing-making. If he had, and he had found that upon that ſubject he might have been liable to tranſportation, or any ſeverer penalty than upon the charge of ſedition, he wiſhed to know the motive he could have for doing ſo; but he ſhould make it as clear as the ſun, that on a conviction of the charge of leaſing-making, he would have been liable to have the puniſhment of tranſportation inflicted on him, as well as on conviction of that offence of which he was convicted; he therefore could have no view whatever in charging theſe men with the crime for which he indicted them, except that of acting according to the law of the country in which they committed the offence.

The Lord Advocate proceeded to examine the meaning of what he conſidered as the main point of the Learned Gentleman's argument, *viz.* the meaning of the word *baniſhment*, in which he differed from Mr. Adam in the definition. Far was he from thinking that it meant the ſlight act of ſending away from one place, and to the excluſion of another, which was called the ſevere act, that of ſending to a certain other place. He defined baniſhment by the law of Scotland to mean ſending a convict wherever the court ſhould think fit; and contended, that *tranſportation* was only the means of carrying ba-

niſhment into effect. The terms of acts were not, he obſerved, to be conſidered as reſting ſolely on the common terms expreſſed, but were to be taken in the legal ſenſe; and further, not in the ſenſe attributed to them by the Engliſh laws, but to be expounded by the ſpirit of the Scotch Judicature. Conſidering them in this light, the term Baniſhment was not to be underſtood in the ſenſe which the Honourable Gentleman had endeavoured to impreſs the Houſe with. It had been the uniform practice of the courts of law in Scotland, not to hold in contemplation the idea of partial baniſhment in excluſion of tranſportation, but the very firſt object of the act after it had paſſed, made tranſportation a puniſhment applicable to crimes which were not *capital*; and ever ſince the puniſhments under the heads charged in that act had been decidedly voluntary. This doctrine he maintained to be ſupported in the preamble of the Act of Parliament of 1503, ſo much relied upon by the Learned Gentleman. He maintained alſo that this principle was recogniſed by the different acts of 1600, 1604, 1661, and all the acts from that period down to the act of 1670; under the authority of which ſeveral perſons had been ſentenced to be tranſported to the Weſt Indies, and other parts beyond the ſeas, for *leaſing-making*. He would readily agree that penal ſtatutes ſhould be ſtrictly adhered to in the letter, that no conſtruction ſhould take place as to ſpirit; but as to the caſe then under conſideration, which did not relate to capital caſes, it was widely different. In an act paſſed in the year 1670, chapter the 2d, relative to *leaſing-making*, it was declared that the Court of Juſticiary might ſend criminals beyond the ſeas, which plainly ſhewed that the meaning of the word Baniſhment was not confined to ſo narrow a compaſs. In acts alſo paſſed in 1700, chap. 3, and in 1661, chap. 34, the meaning of the word was incontrovertibly proved. In caſes of clandeſtine marriage, it was enacted, that the perſon who ſhould have performed the ceremony ſhall be baniſhed forth the kingdom. The ſtatute likewiſe of 1694, againſt fraudulent bankruptcies, uſed the word Baniſhment generally; and yet it was never doubted whether the Judges had exceeded their limits, in tranſporting thoſe who came under the penalty of this ſtatute. In 1663, in the reign of Charles II. when party ran high, and conventicles were objects of juridical inveſtigation, thoſe who were convicted were likewiſe baniſhed forth the realm to the Weſt Indies, and the ſmaller and more confined ſpecies of baniſhment was not applied. In 1636 the parties were frequently ſent to the colonies. All theſe inſtances proved the ſpirit of the act to have been taken in an arbitrary light; and he ſhould venture to ſay, that

that no other conſtruction could be put on the words of the ſtatute; and, to uſe the words of the Learned Preſident of the Court of Juſticiary, whoſe reſpectability and knowledge muſt give weight to whatever he advanced, "that he could not have inflicted a leſſer puniſhment." What then could be plainer than that where ſome ſtatutes, in uſing the term baniſhment, expreſsly ſtipulate that it ſhall be baniſhment to a particular place; where others as expreſsly point out baniſhment to be, merely forth of the kingdom; and where others again uſe the term generally without any ſtipulation; the framers of thoſe ſtatutes intended in the latter to leave a diſcretionary power in the Judges, to inflict either the one or the other, as circumſtances, and the degree of the crime, ſhould dictate? But the matter did not reſt upon that argument; there was another, by which it would appear to a demonſtration, that no other conſtruction could be put on the ſtatute of 1703, than that which he now uſed; that was, that the word Tranſportation was abſolutely unknown to the law of Scotland till within theſe few years; conſequently whether they meant that the criminal ſhould be merely compelled to depart the kingdom for a certain time, or that he ſhould be reſtricted to be ſent to any certain place, they equally uſed the one word Baniſhment. He drew a concluſion from theſe premiſes, that the Judges who preſided at theſe trials could not have acted otherwiſe than they did, could not have inflicted on thoſe defendants ſlighter puniſhments, and anſwer to their country for the duty they owed to it, to their King, and to God. This was the caſe upon trials for *leaſing-making*, in inſtances too numerous to mention in the courſe of that debate. He could cite above fifty of them, ſome of a very old date indeed. He believed that above two centuries ago, when Shetland and the Orkneys belonged to the Crown of Denmark, perſons were tranſported from Scotland thither, being at that time the only places to which tranſports from Scotland could be ſent. Indeed by the regular practice of the courts of law in Scotland, theſe points were arbitrary, and in the diſcretion of the Judges; and arbitrary power, in the ſenſe in which the law of Scotland conſidered it, was a power to inflict what puniſhment the Judges ſhould in their diſcretion think proper, ſhort of death.

In the reigns of Charles the IId and James the IId, the enormities that had been practiſed in the Court of Privy Council occaſioned its abolition, and gave riſe to the creation of the Court of Juſticiary. Although he concurred with the Hon. Gentleman with reſpect to the illegality of the mode of proceeding before the Revolution, yet ſince that period he would contend that the adminiſtration of juſtice had been moſt

pure.

pure. Among many caſes he alluded to, he mentioned one as peculiarly ſtriking. It was the caſe of David Bailey, who was tried, on a charge of leaſing-making and of ſlander (for ſaying that the Duke of Hamilton, the Duke of Queenſberry, and the Marquis of Annandale were ſupporters of the Pretender), on the 24th of February 1704. He was convicted of this charge—What was the ſentence pronounced upon him? They declared him to be infamous; They baniſhed him forth of Scotland for ever; ordered that he be tranſported to the Weſt Indies, to be impriſoned till he was tranſported, and to be ſet upon the pillory from eleven to twelve o'clock in the forenoon on ſuch a day as the Court ſhould appoint. [A loud cry of *Hear! Hear!*] His Lordſhip ſaid he was open to conviction, and he was ſure the Judges of the Court of Juſticiary were ſo likewiſe; but he wiſhed to know whether any caſe could be ſtronger than that he had ſtated, or how it could be explained away; for the caſe came before the Court only eight months after the act of 1703, on which ſo much ſtreſs had been laid, and juſtly laid, for that was undoubtedly an important act. This was after the declaration of grievances, and the claim of rights, in the reign of Queen Anne. Would the Privy Council who pronounced this ſentence, have dared to pronounce it, and to have baniſhed this man for ever at ſuch a time, if that had not been a legal act? On inquiry he found theſe Privy Counſellors were conſidered to be, at that time, the firſt men in Scotland; illuſtrious in character, eminent in ſituation, and diſtinguiſhed for their general knowledge, and that five of them were Judges. At the head of that criminal court was his Majeſty's Advocate (Sir James Stuart); and in that inſtance the Court of Juſticiary had not only acted right, they had not only followed their predeceſſors, but they had proceeded in ſtrict conformity to the law and juſtice of the country. But this was not all, for he maintained that even the learned and reſpectable character to whom the Learned Gentleman had alluded, and to whom mankind were ſo much indebted (Sir George Mackenzie), had defined ſedition in his Treatiſe on the Laws of Scotland, and had warranted the concluſion of the Court of Juſticiary and Circuit Courts on the preſent trials. That great lawyer had conſidered ſedition as a common law offence; indeed ſedition was a crime well known to the law of Scotland.

With regard to what paſſed at the trial of Mr. Muir, his Lordſhip ſaid, he aſked the Court to do nothing but what the Court was bound to do by the ſtrict rules of the laws of the country. He endeavoured to bring in facts againſt the priſoner which were not ſtated in the indictment. How far he

was

was right in doing ſo, was a queſtion for the Houſe to determine, always taking into their reflection, that it was not the law of England, but the law of Scotland, they were to be guided by. The Judges of the Court of Juſticiary had decided that he was right; they were perſons of illuſtrious character; they had been eminent at the bar for their profeſſional knowledge, previous to their being called to the diſtinguiſhed ſituation that they then filled; their adminiſtration of the law was fair, equitable, and juſt; but it was indiſputable that they governed themſelves by the law of Scotland, and not by the law of England, for of that they were ignorant; the law of England was what they never ſtudied any more than himſelf, and as they knew nothing of it, they were ſilent upon it, it being an invariable rule with them not to meddle with what they did not underſtand.

The ſtatement of the Learned Gentleman was certainly correct, as to the pleadings of the court of Scotland being in the form of a ſyllogiſm. They certainly had a major and a minor propoſition; after the ſtatement of which, a time was allowed, and in the courſe of that time the priſoner was to know in general what was to be alledged againſt him; but the Learned Gentleman miſunderſtood the law of Scotland entirely, if he thought that the Scotch lawyers were to plead as formally as they do in England. The practice of the law of Scotland was extremely different. This was what ſome Engliſh lawyers had called a ſhameful latitude; but ſuch was the practice of the law of Scotland. It was enough by that law, if a charge was made out on general terms, and the time, by the common practice, in which the proſecutor inſiſted on any act of the defendant, was the period of three months, within the time of which the priſoner had notice. In either one or other of theſe days, the proſecutor muſt give evidence of ſeditious ſpeeches or writings; but either of them would do upon a charge of ſedition generally laid againſt ſuch priſoner. The proſecutor was not bound to prove what he ſtated ſpecifically; it was enough to prove that the nature of the charge generally was ſufficient to entitle him to give evidence of ſpeech, words, or letters. This doctrine applied to the caſe of the book called the "Flower of the Conſtitution," in the defendant's pocket. An objection was taken to this—he was ready to have argued the thing; but before the Court could give their judgment, he gave up the point *ex gratia*, becauſe he thought it not worth while to diſpute it.

As to the objection taken to the jurymen, it aroſe in this manner: The pannel objected to them, becauſe they were members of the Goldſmiths' Hall aſſociation. Some of them

were ſo; they had united for the defence of the conſtitution. If that was to be allowed a diſqualification, as valid an objection would have lain againſt the firſt characters in the country. They might as well ſay, they would not be tried by any friend to the conſtitution, or by any but thoſe who thought as they did. This muſt be the caſe if this objection was allowed; for if we ſearched the whole country over, there would be found but two claſſes of perſons—thoſe who wiſhed to ſupport the conſtitution, and thoſe who wiſhed to deſtroy it, and to introduce all the confuſion and the anarchy of France. There was no middling claſs to be found. It was, he ſaid, particularly to be obſerved, and he was ſorry for it, that one of the facts againſt the unfortunate man (Palmer) was his endeavour to ſtir up the people of this country to aſſiſt France.

The Lord Advocate once more aſked, Was it likely that men, ſuch as now compoſed the Court of Juſticiary of Scotland, would, in the particular caſes alluded to, ſtretch the cord of juſtice, and overſtep the rule of law? There was an objection taken that was not founded in law, in ſenſe, nor in decency; it was this: Whether an half-pay officer, that received the King's pay, was an improper perſon to ſit as a juryman? The Court repelled the objection; but the Gentleman, through motives of delicacy, declined ſitting upon the jury. What was the reſult of the whole? A jury, compoſed of men of honour, of juſtice, and of diſcretion, found the defendant *guilty*. Unleſs, therefore, it could be proved that traitors, and factious and ſeditious men, were the only proper perſons to ſit on juries, the jury by whom the defendant had been found guilty, could not by poſſibility be accuſed or impeached. With reſpect to the witneſs of the name of Ruſſel, he had been committed by the Court for prevarication. At that diſtance of time, he could not, he ſaid, pretend to charge his memory with the words of the warrant of commitment: If in what he ſhould ſay he committed any error, he ſhould be happy to be corrected. By the law of Scotland it was eſtabliſhed, that the perſon accuſed is to give in a liſt of his witneſſes to the proſecutor. When ſuch witneſſes are brought forward, it was eſtabliſhed by uniform practice and known uſage, that certain queſtions were to be put to them as to their competency. Theſe queſtions were termed *Initialia Teſtimoniæ*, and were to be anſwered fully, fairly, and ſatisfactorily. They were the following: Firſt, *Whether the perſon had received any fee or reward?* Second, *Whether he bore any malice or ill will?* And Third, *Has any body told you or inſtructed you what to ſay upon this occaſion?*

When

When the third queſtion was put to the witneſs Ruſſel, he heſitated. In conſequence of this heſitation in the witneſs, the Lord Advocate ſaid, he had thought it his duty to inveſtigate the matter farther. Upon further examination, the witneſs confeſſed that he had been ſpoken to. When he was aſked who the perſons were who ſpoke to him, he replied, that he did not know them. Upon being queſtioned with reſpect to the particular time when he had held this converſation, he would give no ſatisfactory anſwer; but when the date of his citation was examined, it was found that it had been dated *four days* previous to his examination. On his being queſtioned to the point, whether he had held the converſation already alluded to ſince his citation, and on his anſwering in the affirmative, it was ruled that this circumſtance was fatal to his admiſſibility. Upon theſe grounds the Lord Advocate ſaid, he had held it his duty to ſtate it to the Court that Ruſſel could not be conſidered as an admiſſible witneſs. When perſons talked together previous to any trial, the chance was, that they *framed a ſtory*. There was one circumſtance that he ſhould obſerve farther upon. It had been ſtated, that if evidence had been improperly rejected, it was a ground for a new trial. What was the caſe here? The defendant Muir had brought forward Ruſſel to prove what had been abundantly proved before. He maintained, therefore, that the pannel loſt nothing for want of the teſtimony of this witneſs, for that he only came to prove what twelve other witneſſes had ſworn on the part of the defendant, *viz.* that he frequently deſired the populace to behave peaceably, and ſo on: Theſe witneſſes he had no doubt had had a conference at Glaſgow upon this ſubject; and that was the reaſon they agreed ſo well on this part of the ſtory.

As to the ſoundneſs or the diſcretion of the Court of Juſticiary, the ſentence of tranſportation, and the exceſſive rigour of it, he felt himſelf bound to defend it under all the circumſtances with which it was attended. Upon this ſubject he entered much at length, and obſerved that he had heard much of the ſuperiority of the law of England over the law of Scotland; but for his part, he thought that in this particular caſe the law of Scotland was ſuperior to the law of England, and much better adapted to ſuppreſs ſedition. When he referred that Houſe to the caſe of 1704, he would aſk, Whether the conduct of the Court of Juſticiary of Scotland could fairly be called in queſtion? At that period the Court decided upon the pure caſe of *leaſing-making* in preciſely the ſame manner that they had decided upon the preſent caſes of ſedition, which were by far more enormous. He maintained alſo, that tranſ-

portation was the moſt prudent diſpoſal that could be made of perſons who had been guilty of ſuch atrocious offences, that the perſons convicted, if they had been fined, would have had their fines paid by others—and as to impriſonment, they would have borne it with triumph; he had ſeen what a den of ſedition impriſonment had been made, by perſons who took advantage of every opportunity to laugh at, and inſult, the government of the country. Of what avail would baniſhment have been? If Meſſrs. Muir and Palmer had been baniſhed to this country, ſuch perſons as Margarot, Skirving, and Gerald, would immediately have been ſent into Scotland to ſow the ſame pernicious doctrines.

Mr. Thompſon called the Lord Advocate to order, for alluding in the manner he had done to Mr. Gerald: That gentleman was now on his trial, and it was an indecent anticipation of his ſentence. The Learned Lord, Mr. Thompſon ſaid, ſpoke more in the character of a Lord Advocate of Scotland than of a Member of the Britiſh Parliament.

The Lord Advocate proceeded to defend the conduct of the Scotch Judges, and concluded with contending, that, from the acts and caſes that had been cited, it would be impoſſible for that Houſe to ſay that the Court of Juſticiary of Scotland had not, in the mode of procedure that they had adopted, conducted themſelves in ſtrict conformity to uniform uſage, to invariable practice, and to the ſtrict letter of the law.

Mr. Sheridan declared, that however diſinclined he might have been to offer himſelf to the attention of the Houſe upon a queſtion, wherein he might be ſuppoſed to know ſo little, yet he never in his life felt it ſo impoſſible to ſit quiet as he then did, having heard the arguments that had fallen from the Learned Gentleman. For if what had been advanced by him were true, the queſtion would no longer be, what is the law, but whether they were bound not to loſe a moment of time in putting an end to its further continuance? The Learned Gentleman had inſinuated, at the opening of his ſpeech, that it was impoſſible for any one to be capable of judging rightly on the queſtion, without the aid of great legal information; but he begged leave to ſay, that it was owing to his Hon. Friend's happy combination of knowledge, unfettered by the ſhackles of mere legal diſquiſition, which had ſo eminently enabled him to unite the moſt conſtitutional ideas with his valuable habit of profeſſional accuracy.

Mr. Sheridan took notice of all the arguments of the Lord Advocate, and maintained that there was a fallacy in the whole tenor of his ſpeech, as the Learned Gentleman had confounded two things eſſentially diſtinct, the crime of *leaſing-making*,

making, and the crime of *ſedition*. All the caſes he had brought forward applied to *leaſing-making* only; and the queſtion did not involve that conſideration, but related merely to ſedition, upon which not a ſingle caſe was to be found. He ridiculed the aſſertion of lawyers from Scotland, telling the Houſe they were not qualified to judge on a point of common ſenſe, becauſe they were not Scotch lawyers. The queſtion here was a queſtion of common ſenſe, ariſing out of the hiſtory of the country. He reprobated in the moſt ſevere manner the obſervation of the Lord Advocate, that there was no middle claſs of people in Scotland, between thoſe who wiſhed to deſtroy the conſtitution and introduce the horrors of anarchy, and thoſe who applauded the proceedings of the Court of Juſticiary. The aſſertion he hoped and believed to be as falſe, with regard to the people of Scotland, as he knew it to be falſe in application to the great body of the people of England; he knew that in England there was a claſs between republicans and levellers, and aſſociators and alarmiſts, and much more honourable in their views than either, men upon whom this kingdom might depend for its protection and ſecurity, and to whom every honeſt man might look up with confidence—men who had too much ſpirit to crouch to power, and too much candour and integrity to ſtoop to mean artifice, to gain the momentary applauſe of the unthinking part of the community: In a word, men who would defend the conſtitution with unabated ability and undaunted courage. He expreſſed his indignation at the idea of the Noble Lord preferring the criminal law of Scotland to that of England, and ſaid that ſuch aſſertions ſhould never be ſuffered to paſs unreprobated, leſt contempt might be conſtrued into acquieſcence, and there might be found a miniſter bold enough to make the experiment of changing the criminal law of England for that of Scotland. Having given ſuch a character of his countrymen in Scotland, the Lord Advocate had confeſſed his ignorance of the law of England; but had expreſſed a wiſh that the Houſe would believe him to be learned in the law of Scotland. If his ſtatements of that law were correct, he had indeed preſented a picture calculated to alarm and to frighten every man in that Houſe and in the country. Would the Learned Lord, he would aſk, or any other perſon, dare to attempt the introduction of a Bill for tranſporting perſons convicted of libels in England to Botany Bay? He took notice of the conduct of the Court, with regard to the witneſs Ruſſel, offered on the part of Mr. Muir, and maintained that both the Lord Advocate and the Court had acted illegally upon that ſubject; that their conduct would not have been agreeable

agreeable to any principle of law, recogniſed in any civilized ſociety, for that Ruſſel the witneſs had ſaid only, that he did not recollect what no perſon in Court could prove to be falſe. Mr. Sheridan applied many pointed obſervations on the refuſal of the Court of Juſticiary to allow the objection of Mr. Muir to the jury, as having prejudged his cauſe in the aſſociation of the Goldſmiths' Hall Company. This, he ſaid, confounded two things eſſentially at variance with one another in the adminiſtration of juſtice in every court where juſtice was known or pretended to be adminiſtered—that of the accuſer being a judge; which was the caſe on the trial of Mr. Muir. An attempt had been made to put the queſtion on the footing of wiſhing to throw a ſtigma on the Scotch judges. What, he would aſk, was the cauſe of the confidence of the people in the judges? Was it their characters? No. It was the controlling power which the Houſe had over thoſe judges, and which was the beſt ſecurity for their due adminiſtration of juſtice. He ridiculed the effect of the reſearches of the Lord Advocate, who had ſtudied the law of Scotland for eighteen months, and had only brought forward a law which had ſlept for a century, which, when he produced it, turned out to be only a law upon *leaſing-making*, whereas the ſubject to which he applied it, was ſedition. He obſerved that it was ſomewhat remarkable, that the Noble and Learned Lord could not have found in the hiſtory of Scotland any law for ſedition, in the courſe of a century. This was ſo curious a circumſtance, that if perſons were preſent who never heard of the recent proceedings in Scotland, they would ſay, What new crimes have theſe men committed, that it is neceſſary to go back one hundred years for a puniſhment for them? They would think that Scotland had been the golden age for the laſt century; that no treaſons and no inſurrections had taken place within that period, when, in fact, there had been not only ſedition and inſurrections, but two rebellions. It was extraordinary, he ſaid, that the Noble Lord ſhould never by accident have ſtumbled on the caſe of Mr. Dundas (he believed) of *Arniſton*, who was accuſed of diſtributing medals which a wicked woman, called the Ducheſs of Gordon, had given to him: On theſe medals were the head of the Pretender, and ſomething very ſeditious on the other ſide—and of making ſpeeches recommending the protecting the Pretender. It was extraordinary that this circumſtance had eſcaped the hiſtorical vigilance of the Learned Lord. He took notice alſo of the charge againſt Mr. Muir for diſtributing books, the works of others, and of the neceſſity there was of tranſporting him for fourteen years for it, as a thing perfectly

fectly new, in that the Learned Lord had never heard of ſuch a crime as of calling on the people to aſk for a Parliamentary Reform. Perhaps the Learned Lord had never heard of ſuch a proceeding as a reſolution, ſtating, "That ſince the *general* ſenſe of the people could not be procured at a ſufficiently early period to petition Parliament that ſeſſion, reſolved unanimouſly, That an application be made to them as ſoon as poſſible, at convenient times and meetings, to inſure a ſpeedy determination of the grand object—*a Parliamentary Reform.*" This ſpirited reſolution was dated the Thatched Houſe Tavern, and voted there in 1781, ſigned by William Pitt, the Duke of Richmond, and others, calling on the people to do the very ſame thing.

Perhaps the Learned Lord had not known any thing of the late publications of Mr. Burke againſt popular rights, which however agreed pretty well with the ſpeeches of the Learned Lord at theſe trials; for every ſentence and almoſt every word ſeemed to have been borrowed from that admired performance. But the Public would ſee through all this; they would ſee that there was ſomething ſo implacable, ſo rancorous in the character of an apoſtate, that he can never forgive others for adopting what he has found it convenient to abandon: Hence all the perſecutions againſt all thoſe who dare to follow the plan of a Parliamentary Reform. Having pointedly obſerved on the apoſtacy of thoſe who had formerly been friends to a Parliamentary Reform, he charged the Lord Advocate, in his ſpeech on the trials, with having never taken notice of any exculpatory evidence adduced by the unfortunate priſoners.

With regard to the diſtinction between baniſhment and tranſportation, according to his ideas of the ſubject, Mr. Sheridan conſidered it in a very different point of view from that in which it had been advanced by the Lord Advocate; notwithſtanding whoſe particular reference to the ſtatute 1686, Mr. Sheridan inſiſted, that the two words were not of a ſynonimous meaning. But the Learned Lord, in the unbounded triumph of his ſpeech, had come at laſt to what he thought "a clinching argument" againſt thoſe who appeared friendly to the motion. He had endeavoured to ſilence them by the *memorable* caſe of Bailey, in the year 1704, ſeveral months after the law which had that evening been ſo often mentioned was paſſed. This inſtance his Lordſhip, in the heat and hey-day of his declamation, conſidered as the *climax* of his legal authority, which was to ſilence and confound all his opponents. It was, however, very unfortunate for the Lord Advocate of Scotland, that of all caſes which could be reſorted to for the maintenance of an argument, that of Bailey was, without

exception, the very worſt and moſt odious. And why compare the abominable proceedings of the Privy Council to thoſe of the Court of Juſticiary? There never was a more foul or more infamous act than what had now been produced in vindication of his Lordſhip and the Judges, the caſe of Bailey being a proof of the Privy Council having ſtretched and exceeded their power to a ſhameful degree.

When the two caſes were ſurveyed, could the Houſe for one moment deliberate which was the moſt flagrant, or the moſt dangerous to the general intereſts of ſociety? That in which the Duke of Hamilton had been calumniated, or that in which the rights and liberties of mankind at large had been materially injured? It was anſwered as a conſolatory expedient, that the *moderation* and *forbearance* of the judges deſerved the higheſt panegyric, becauſe of all the evils in their option, they had choſen the leaſt. They were at liberty to exerciſe baniſhment or tranſportation, with all its bitter aggravations of fortune; but here, again, they exceeded the limits of their authority; they not only ſentenced Bailey to tranſportation, but ordered him the *pillory* as a preliminary, and inflicted upon him the epithet *infamous*, as a teſtimony of their Chriſtian charity and benevolence. For ſuch an undue exerciſe of power, theſe men ought to be execrated rather than held up to admiration; for in this inſtance there was a total departure from the letter of the law, and from all ſenſe of juſtice.

The queſtion, however, ought to be more ſtrictly attended to. It was not a diſcuſſion concerning the merits or demerits of the Scotch Privy Council in the year 1704, but whether in the caſes of Muir and Palmer there appeared ſufficient grounds to order an examination into the conduct of the Court of Juſticiary, or whether or not the whole proceedings ought to be reviſed, and, if neceſſary, amended? He hoped that Gentlemen would deeply impreſs on their minds the ſerious conſequences of theſe legal deciſions, before they gave the vote for which they were that night ſummoned. He lamented the modern Scotch explanation of the word *ſedition*; believed that Muir and Palmer had been dealt with in an unconſtitutional manner; and thought that a check or control ought to be given to the arbitrary conduct of the Scotch judges.

Much idle declamation had been made reſpecting the common law of the two countries. He was convinced that the common law of England was founded on the broad principles of common ſenſe. He wiſhed that the ſpirit of the criminal law was the ſame in both countries; and that the Scotch judges would diveſt themſelves of extravagant partiality, and evince

evince ſome reſpect to the common law of England, and to the common ſenſe of every country. Mr. Sheridan ſaid, he could not believe that the criminal law of Scotland was what the Learned Lord had repreſented it to be; but if it were, he flattered himſelf that all good men would agree with him in thinking that it ought to undergo an immediate alteration, and be rendered conſonant to the true principles of freedom, humanity, and juſtice. He maintained that the Lord Advocate had miſconſtrued the whole of the opinion of Sir George Mackenzie on the ſubject of ſedition; and denied that the opinion of Sir George Mackenzie, as quoted by the Learned Lord, tended to corroborate what the Learned Lord had advanced on the occaſion. After commenting much at large on the various definitions of high-treaſon, leaſing-making, and ſedition, he maintained, as an indiſputable fact, that the cauſe of the proſecutions againſt Muir and Palmer was neither more nor leſs than becauſe they appeared to be diſaffected to the King and Government. Could Gentlemen for a moment imagine, that theſe two unfortunate men ought to be expelled from ſociety, merely becauſe they adopted political principles diametrically oppoſite to thoſe who were in power? Was the loan of Flower's book, or any other of a ſimilar tendency, a ſufficient reaſon for tranſporting Mr. Muir to Botany Bay?

"By the adoption of this new and infamous mode of proſecution (ſaid Mr. Sheridan), you call up a man to anſwer for his *ſuppoſed* crimes; you inveſtigate his whole life in the moſt ſcrupulous and illiberal manner; you canvaſs every tranſaction, and miſconſtrue every circumſtance; and then you try him upon the moſt fallacious grounds that were ever made the grounds of criminal proſecution in a Court of Juſtice. Good God! Sir, is it poſſible that this can be the law of Scotland? If it be, it ought not to continue one hour longer; and although the Lord Advocate has inſinuated that he thinks the ſame ſyſtem ought to be introduced into England, yet, Sir, I am not afraid that Engliſhmen would at any time ſuffer ſuch a violation of the ſpirit of our ſalutary laws."

He warned the Houſe againſt the public danger of laying down a precedent which would go to the length of telling the people of this kingdom that the Houſe of Commons will never inſtitute an inquiry into the conduct of juſtice upon any thing ſhort of illegality. After commenting upon the other parts of what had fallen from the Lord Advocate, Mr. Sheridan ſtated, that there was one circumſtance, which, though not immediately connected with the ſubject matter of debate, he could not avoid ſtating to the Houſe. An Hon. and worthy Member (Mr. Whitbread, ſen.) had, upon a former

night, ſtated, with motives that no doubt did honour to his feelings, an inſinuation reſpecting the ſanity of the faculties of Mr. Palmer. That unfortunate gentleman, then on board the veſſel which was to convey him to Botany Bay, had, in a letter which he held in his hand, declared, that not all the ſeverities of his unmerited fate had touched him ſo ſenſibly as this imputation; and he earneſtly deſired that it might be underſtood, that, in the petition which he had offered to that Houſe and to the foot of the Throne, he had demanded juſtice, not implored mercy. The miſtake had probably ariſen from the circumſtance of there being a brother of this gentleman who laboured under the misfortune, miſtakenly, and no doubt kindly, attributed to him.

Having finiſhed this ſubject, Mr. Sheridan beſought the Houſe to attend to the deciſion that night, and not to make ſo dreadful a precedent as the eſtabliſhment of the ſentence by withholding the Record muſt do, and which went a great way to introduce the diabolical law complained of into this country.

Mr. Whitbread Junior ſaid, that part of the ſpeech of his Honourable Friend, who had juſt ſat down, made it neceſſary for him to intrude a few moments on the Houſe; he alluded to what had fallen on a former night from a Gentleman very near and very dear to him, reſpecting an inſinuation of Mr. Palmer's inſanity: He declared that he believed the idea was ſuggeſted by the pureſt, the moſt humane motives; but the fact was as his Honourable Friend had ſtated it to be. He bore equal teſtimony to the ſanity of Mr. Palmer; and ſaid he could do ſo with the greater confidence, having ſeen him, known him, and having had the honour of correſponding with him; he knew him to be a man of the moſt engaging manners, and of the moſt enlightened mind. The greateſt proof, if any proof were neceſſary, of his firmneſs and his fortitude, Mr. Whitbread ſaid, was the manner, and the philoſophic mind, with which he bore up againſt this unheard-of oppreſſion; inſomuch that he could not help thinking of him as Seneca ſays of Cato, that "there could not be a ſight more delectable to the gods than to ſee a virtuous man ſtruggling with adverſity."

As long as he had the honour of a ſeat in the Houſe, Mr. Whitbread declared, he had never heard a ſpeech which ſo ſtrongly excited his indignation, as that of the Lord Advocate; and he heſitated not to declare, if the law of Scotland was ſuch as it was repreſented to be by the Learned Lord, it was a law of tyranny and oppreſſion, and it was abſurd to ſpeak of perſonal liberty in that country: He had heard it aſſerted, that the laws of England were too light, that ſufficient puniſhments

ments were not inflicted on thoſe who were convicted of ſeditious practices: If the fact were ſo, it was a fault on the right ſide, becauſe ſentences inordinately ſevere led to inconvenience and to miſchief. He cenſured the mention of a perſon's name whoſe trial was yet under agitation, and declared that the ſame ſtyle of prejudication had accompanied the other inſtances of the proceedings of the court, and particularly that of Mr. Palmer. In proof of the aſſertion, Mr. Whitbread recited that part of the Lord Advocate's ſpeech on the trial of Mr. Muir, in which the Learned Lord ſaid, "A man may be known by his company; and there is a coadjutor of his now under trial who *will ſhare the ſame fate.*" Men may be proſecuted into popularity, he would admit; and the ſeverity of the puniſhment often deſtroyed the intent. But if the miniſters of this country ſhould dare to introduce the laws of Scotland, he hoped there would be found men bold enough to impeach them. He left all encomiums on the Scotch law with the Learned Advocate; if his accounts of it were true, none but a ſlave could love a conſtitution where ſuch laws as thoſe of Scotland were ſuffered to exiſt; and none but a ſlave could praiſe them. Impartial poſterity could alone be the judge on this unfortunate buſineſs. Let the miniſter, however, beware how he puſhed matters to a criſis; it was not the fettering of hands, confining of bodies, or tranſporting of perſons to Botany Bay, which could repreſs the ſentiments of truth, or annihilate the cauſe of juſtice.

Mr. Whitbread concluded with the following Latin quotation from Tacitus:

"*Quo magis ſocordiam eorum irridere libet, qui præſenti potentia, credunt extingui poſſe etiam ſequentis ævi memoriam: Nam contra, punitis in geniis gliſcit auctoritas, neque aliud qui ea ſævitia uſi ſunt, niſi dedecus ſibi atque illis gloriam acquirere.*"

Mr. Windham ſaid, he thought the queſtion before the Houſe ſo peculiarly the ſubject of legal diſquiſition, and ſo excluſively the buſineſs of thoſe Gentlemen who profeſſed the law, that he ſhould not have riſen, if an Honourable Gentleman on the ſame ſide with him (Mr. Sheridan) had not ſet him the example, by ſpeaking to it, and encouraged him, by applying to matter totally diſtinct from the ſubject. He could not, however, aſſent to the opinion of the Honourable Gentleman, that, in treating the matter, the Houſe was not to be reſtricted to forms, or confined within legal trammels. He would indeed allow, that, in conſtitutional queſtions, a large and liberal view was more fit for the adoption of that Houſe, than the preciſe and formal habits of inferior courts. But this he conceived to be a mere queſtion of law.

The firſt point for the conſideration of the Houſe was, whether the trial, the verdict on that trial, and the ſentence on that verdict, were legal or not? This, the Houſe would ſee, was confined to perfect legal ſtrictneſs. He was, however, ſorry to be obliged to ſay, that the Honourable Gentleman, in arguing the matter, had neither proceeded on principles of law, nor applied himſelf to the general merits of the caſe; but had choſen to diſcharge the more pleaſant taſk of entertaining the Houſe with alluſions to the opinions of certain perſons expreſſed upon former occaſions, and drawing far-fetched concluſions from thoſe opinions, in order to apply to the ſubject in diſcuſſion; although he would be bold to ſay, that no one could ſeriouſly find any the moſt remote reſemblance, any the moſt diſtant communication, between them and the arguments that really applied to the ſubject before the Houſe. The opinions to which he alluded, were thoſe of conſiderable perſons in that Houſe and elſewhere, reſpecting a parliamentary reform; on which ſubject he would only ſay, that whatever great and wiſe men might once have thought of it, long experience, and the ſignal example of the preſent time, had convinced them that they were wrong.

The Hon. Gentleman had taken up, with ſtrong marks of reſentment, an expreſſion that had fallen from the Learned Lord Advocate, *viz.* that the country was divided between two claſſes; aſſociators, or thoſe who were attached to the conſtitution on the one hand; and thoſe who had ſeditious views on the other; and that there were no middle men. He, for his part, ſhould be ſorry to think that there were none; though he feared that, in the general conduct of public buſineſs, men found a diſpoſition either to one party or the other, rather than to take a middle courſe. The Honourable Gentleman himſelf ſeemed to inſinuate that he was one of thoſe middle men: He (Mr. Windham) was diſpoſed to believe it might be ſo, but he feared that the Honourable Gentleman had nevertheleſs *a little leaning to one ſide.*

Mr. Windham ſaid, that with reſpect to the challenging of the jury, which the Honourable Gentleman had ſo very warmly reprobated, he, not being a profeſſional man, could not with certainty ſay how far it was right; but until he ſaw or heard ſtronger reaſons for cenſuring it, the deciſion of the court being in its favour, there was a ſtrong preſumption of its being right.

Great ſtreſs, he obſerved, had been laid on what had fallen from the Learned Lord Advocate reſpecting the objections of Mr. Muir to the jury; and which objections had been maintained by the Honourable Mover, and the other Honourable Member (Mr. Sheridan), and amounted to this, "That no one

one man was fit to try a traitor who was hoſtile to treaſon. This he contended to be a falſe inference. All honeſt men, who try a criminal, muſt neceſſarily be enemies to the crime in a greater or leſſer degree, in proportion to the magnitude of the crime, and the remoteneſs of its effects; but in crimes againſt the public, all men were nearly concerned; and if the doctrine he was attempting to refute were held good, none of courſe could try. As to Aſſociators, in times of imminent public danger, men were obliged to aſſociate for the public ſecurity; but by no poſſible inference could this be deemed a diſqualification to ſerve on a jury for the trial of a ſeditious perſon or a traitor.

The Hon. Gentleman had aſked, with conſiderable emphaſis, who that man was who would be bold enough to ſay, that the laws of Scotland ſhould be preferred in ſuch caſes to thoſe of England? He, for his part, would be the one to ſay, that if juſtice was baulked, and the laws were not adequate to the puniſhment of crimes, he had no difficulty to declare his opinion that they ſhould be made ſo. There was no neceſſity to follow Scotland in her laws, if wrong; but laws ſhould be made adequate to the prevention and puniſhment of crimes, or all ſecurity of life and property was at an end. If the crime of *leaſing-making* was confined to a narrow compaſs, there muſt be ſomething ſhort of high treaſon, for which proviſion ſhould be made, particularly in caſes of crimes againſt which the utmoſt vigilance ſhould be obſerved, ſuch as writings, ſpeeches, and other efforts to diſturb the public repoſe. That, however, was not the queſtion then under conſideration, but, ſimply, whether the trial and its proceedings were legal? On this ſubject he had heard, with the greateſt attention, the Hon. Gentleman who had made the motion, and he had not the ſmalleſt heſitation to declare his decided opinion, that, under the word Baniſhment, the court was inveſted with the fulleſt power, and that that power had been long exerciſed; and as to the idea of baniſhment, merely as relied on, it was idle; for baniſhment neceſſarily implied a power to *force* away to ſome particular place or other, and could not be executed generally.

The Honourable Gentleman (Mr. Sheridan) had ſaid, that if the Houſe decided againſt this queſtion, it would eſtabliſh the fatal doctrine, that no inquiry ſhould be made into the conduct of courts without having proof of actual illegality before it. This he denied; and hoped the Houſe would never enter into an inquiry when they had (as in the preſent caſe) proof before them that the ſentence propoſed to be inquired into was right. He declaimed at ſome length on the faſhionable theme of conſpiracy and treaſon, and concluded with giving

giving his opinion, that there were ſerious grounds for apprehenſion; and that he firmly believed there were now in the heart of this kingdom, innumerable perſons of dangerous principles and dangerous intentions.

Mr. Fox ſpoke ſubſtantially as follows: "I declare, Sir, it was my wiſh that this queſtion ſhould have been neither agitated in this Houſe, or the Houſe of Lords; but ſince it has been brought before this Houſe, and ſince doctrines of the moſt extraordinary and monſtrous nature that ever fell from any Gentleman within theſe walls, have been advanced by a Learned Lord oppoſite me, who has riſen to vindicate the conduct of the tribunal of Scotland, and to defend that part which he has taken in the proceedings, notwithſtanding the lateneſs of the hour, I ſhould feel myſelf deficient in the duty which I owe my own character, as a repreſentative of a great and free people, if I withheld my ſentiments, and contented myſelf with giving a ſilent vote on this occaſion. The preſent is a queſtion of the greateſt importance that ever came before the Houſe: A queſtion which involves in its conſideration, not only the fortunes of two ſuffering and oppreſſed individuals, but the conſequences which will be produced to poſterity, by eſtabliſhing a precedent dangerous and inimical to their liberties. No wonder my Honourable Friend, who has juſt ſat down (Mr. Sheridan), ſhould have diſplayed ſuch honeſt and animated indignation, and expreſſed himſelf in ſo feeling a manner on ſuch an important ſubject; but there is one point in the ſpeech of my Honourable Friend, which I cannot help taking notice of, and on which I am under the neceſſity of entirely diſſenting from him. My Honourable Friend has declared, that if any miniſter ſhould dare to introduce into this country the laws of Scotland, he hoped there would be found in this Houſe men bold enough to impeach him. I cannot agree on this point; for ſo dearly do I prize the freedom of debate, with ſuch veneration do I eſteem the free and unlimited diſcuſſion of any political or conſtitutional queſtion within theſe walls, and ſo jealous am I of every thing which would look like an infringement of this our moſt valuable privilege, that if a miniſter were to advance the moſt dangerous and moſt horrible principles, if he were even to propoſe a Bill to this Houſe to alter the ſucceſſion to the Throne, and introduce into the place of our Sovereign a foreign pretender, I would hold him juſtifiable even for the unconſtitutional meaſures he attempted to introduce, and with my voice I would endeavour to reſcue him from a public impeachment, or public proſecution. The Learned Lord over againſt me, in his panegyric on the laws of his own country, has thought proper to throw

throw out inſinuations againſt and ſtigmatize the laws of England. From his train of reaſoning, and from the many arguments he has brought forward, in attempting to defend his favourite ſyſtem of Scottiſh juriſprudence, it ſtruck me, and it muſt have ſtruck every man, open to the moſt common impreſſions, that it was his ſincere and fervent wiſh, that his native principles of juſtice ſhould be introduced into this country, and the infamous fabric of Scottiſh perſecution ſhould be erected on the ruins of the common law of England. Indeed, Sir, when I recollect what has been advanced by the Learned Lord, I can eaſily account for the ſentence pronounced againſt theſe two unfortunate gentlemen. If that day ſhould ever arrive, which the Lord Advocate ſeems ſo anxiouſly to wiſh for, ſhould the tyrannical laws of Scotland ever be introduced in oppoſition to the humane laws of England, it would be proper for my Honourable Friends and me to accommodate our affairs, and retire to ſome happy clime, where at leaſt we may enjoy thoſe rights which God has given to man, and which his nature tells him he has a right to demand.

"I will now addreſs myſelf to my Honourable Friend (Mr. Windham) who has juſt ſat down, and I will aſk him what he means by talking of the laws being adequate? Does he mean to aſſert, that the laws of this country are not adequate to puniſh ſedition? There was a time when he agreed with me, that the laws were adequate; and he muſt think ſo ſtill. He has told us, that if they are not ſufficient to check the career of ſedition, laws ought to be introduced to anſwer that purpoſe. Would he introduce the tyrannical laws of Scotland? No; ſtruck with a ſenſe of the cruelty of the puniſhment which had been inflicted on theſe gentlemen, ſtruck with the conviction of the iniquity of the whole proceedings, ſtruck with a veneration due to the laws of this country, and an apprehenſion of the inevitable and fatal conſequences that muſt reſult to Engliſh liberty, from the horrors of ſuch innovation, he has qualified a little his expreſſion, and has ingeniouſly ſlipt in an *if*; "But *if* (as Shakeſpeare has ſaid) is your only peace-maker." My Honourable Friend has ſaid, if the laws are not adequate, why then let the laws of Scotland be introduced in their place. The queſtion, Sir, is unfortunately a complicated one. In complicated queſtions it will always happen, that there are ſome particular parts in which Gentlemen will diſagree; there will be parts that ſome will overlook, and others will combat; but in every queſtion, however intricate or comprehenſive its views, there are certain eſſentials, in which all who value truth, or act from the honeſt impulſe of their heart, muſt be unanimous. Moſt true it is, Sir, that in every

country there will be points on which the ſentiments of men will be at variance, for it is the nature of men to differ; but juſtice in every country is the ſame, and in what relates to her there can be but one opinion. If, therefore, this ſentence muſt in England be conſidered as notoriouſly unjuſt, and repugnant to every principle of humanity, it is impoſſible for ingenuity to varniſh over ſuch a ſyſtem of iniquity, or give to that, which, on its very face, wears the features of cruelty and oppreſſion, the appearance of juſtice or humanity.

"Now a few words as to precedent: Let us examine a little what the Lord Advocate ſaid on that ſubject, and I will be bold enough to aſſert, that, except in one inſtance, I mean the Statute of Bankruptcy, he has not pointed out a ſingle caſe which bears on the preſent motion, or warrants that interpretation he has put on the word Baniſhment. With reſpect to the Act of 1703, it is a limiting Act: It uſes the word Baniſhment. In the ſtatute of 1672, the word Baniſhment is mentioned with additions. So that if Gentlemen examine all the ſtatutes which have been made, it muſt ſtrike the minds of thoſe open to conviction, what the real meaning, and the fair and honeſt interpretation, of the word Baniſhment implies.

"The Lord Advocate, to vindicate the proceedings of the trial, and give it at leaſt an air of juſtice, has treated the word in rather a ſingular manner, and has endeavoured to prove that it is ſynonimous to Tranſportation. Let us refer to the laſt ſtatute quoted, in 1672, and Gentlemen will clearly diſcover that when it was the intention of the Legiſlature to extend baniſhment to tranſportation, the place deſtined for the culprit's tranſportation was ſpecially declared; hence in the ſtatute of 1672, we ſee baniſhment to the Weſt Indies; if this word extended generally to tranſportation, why is the place pointed out in ſome caſes, and omitted in others? The reaſon is obvious; when the law of Scotland only meant ſimple baniſhment, that is exiling a man from his country, it only uſed the word; it gave him the liberty of chuſing a ſpot for himſelf. But where the offence called for more ſevere puniſhment, the place was identified. There is one ſtatute, and only one, which makes in favour, and that is but a poor aſſurance, the ſtatute of 1696. That ſtatute enacts, that baniſhment, or otherwiſe, ſhould be the conſequence, on conviction: To argue on the word *otherwiſe*, and make it a ground for a ſeverer puniſhment than the word Baniſhment, will be contrary to all rules of law; and in my mind they cannot by any means at all avail themſelves of this ſtatute. The ſtatute of 1704 was made by the Privy Council of Scotland, the moſt reprobate

probate and deſpicable tribunal that ever diſgraced the annals of its hiſtory. And we know this, as well from the act itſelf as from what fell from the Noble Lord on the Woolſack laſt year, who, when the precedent of the appeal to the Privy Council of 1704 was ſtated, declared he would pay no attention to any thing that came from that moſt infamous and reprobate tribunal, and would not ſuffer it to be argued from, becauſe it was no precedent. It appears to me, as it muſt to every man of ſober reflection, a matter of aſtoniſhment, how this memorable Privy Council, enrolled in the annals of infamy, had eſcaped an impeachment; but there is this conſolation to all good men, that if it formerly paſſed unimpeached, the recent inveſtigation of its merits has rendered it the moſt deteſtable that had ever uſurped legiſlative authority. In defiance of an Act of Parliament, it exceeded its boundaries to puniſh with pillory and infamy the unhappy victim of its ſpleen or malevolence. It is futile and abſurd to ſay, that this infamous and abandoned tribunal is unimpeachable, becauſe ſome of its members were active in the Revolution. This is no proof of its rectitude; becauſe I have every reaſon to believe, that thoſe concerned in the Revolution were not actuated by the beſt or the pureſt motives.

" I come now to this enormous and gigantic ſedition, which has induced the Lord Advocate to ranſack precedents which have lain dormant for two centuries. In the laſt century he ſays there are no precedents, though in that period there were two rebellions; and we find the name of Graham, and ſeveral others, who were convicted of more atrocious offences, but puniſhed with leſs ſeverity. But what is this ſedition? The Lord Advocate has mentioned the name of Mackenzie, and has miſquoted him, in ſupport of his own principles; this is an authority however which I never mention without reluctance and humiliation (but I am obliged, as there is no other conſtitutional writer), becauſe I cannot help recollecting that this very man was the principal ſupporter of the judicial tyranny of the Houſe of Stuart, which is now reviving with unabating fury in Scotland! Indeed, Sir, ſo ſtrikingly diſguſtful are all the features of this trial, and ſo enormous its proceedings, that when I firſt heard of them, I could not prevail on myſelf to believe them; the charge itſelf, and the manner in which that charge was exhibited, made my blood run cold within me. I read the firſt edition; I diſcredited: I read the ſecond and the third editions; I was inclined to diſbelieve them all; nor would I even believe it now, had not the Lord Advocate riſen, and, in the face of the Houſe and his country, acknowledged the whole tranſaction, and maintained

its juſtice, its humanity, its legality! If this be the law of the country, I am aſtoniſhed that we (in oppoſition) have not been ſent to *Botany Bay* long before this time. But if ſedition is to be proved by ſuch an evidence as Ann Fiſcher, which in no civilized country would be permitted, there is an end of juſtice. This infamous evidence, this domeſtic ſpy, was even queſtioned reſpecting the private and unguarded converſation of her maſter, and her teſtimony was allowed, becauſe it was ſolicited. Good God, Sir, what man amongſt us, if our ſervants and our friends were called to give evidence againſt our private declarations, would not ſtand guilty? and which of us would not be liable to tranſportation? If ſo tyrannical a law exiſts, our fortunes, our honours, our lives, are at the diſpoſal of the executive power. But ſince the Lord Advocate has introduced a neighbouring country, and has ſpoken much of the word Sedition, I will aſk the Lord Advocate where he is to find this word Sedition? You cannot find it in the common law of England or Scotland; but I will give him a little aſſiſtance to help him out of his embarraſſment, and will adviſe him to change this word into *Inciviſm*. That nation will not, for correſponding with the Auſtrians and Pruſſians, convict you of this offence; but correſpond with the Duke of Orleans, and you will be guilty of inciviſm, and you will be doomed to the guillotine. Let the Lord Advocate imitate the example of France; let him convert ſedition into inciviſm; and let him, like that unfeeling and ferocious people, doom the accuſed and ſuſpected to Botany Bay or the guillotine. Let him tell me where I can find a common law caſe of ſedition in Scotland: The only authority he can produce is Mackenzie's, and that is unfavourable. Let him tell me the general reaſoning of juſtice, or by what laws of eternal juſtice, it is too great a liberty for profeſſional men to expect that we will pay implicit obedience to their doctrines. Does the Lord Advocate ſuppoſe that I will give unlimited confidence to his *ipſe dixit?* he is wrong if he imagines we are not equally capable of diſcuſſing ſubjects of legal policy. It is evident, from all that has been ſaid, that the legality of Meſſrs. Muir and Palmer's ſentences is highly queſtionable.

"Thoſe who thought Mr. Muir was gently treated, by giving him leave to exiſt on any terms, judged with unparalleled harſhneſs and cruelty. Let them reflect for a moment, and they will acknowledge, that, to a gentleman of Mr. Muir's education and talents, there is very little difference between ſending him for fourteen years to Botany Bay, and the ordering him for immediate execution. Perhaps the latter would be more charitable and humane! Upon what principles of eternal

eternal juſtice and eternal right is ſuch a crime as ſedition puniſhed with all theſe bitter aggravations of cruelty? The ſavages, accuſtomed to wolves and tigers, poſſeſs a much greater portion of humanity! Let theſe proceedings be torn from the records of a Court of Juſtice; and let the whole tranſaction be ſunk in an eternal oblivion by a manly acknowledgment of error!

"My Learned Friend, who opened the debate, has clearly ſhewed, that the Panels were indicted on the ſtatute of leaſing-making; we have ſeen alſo that the puniſhment inflicted on the convicted, is either baniſhment, fine, impriſonment, or corporeal puniſhment. The Lord Advocate has ſeriouſly aſked the Houſe, if theſe men were not tranſported, what would be done with them? Says he, Shall I impriſon them? Impriſonment is a poor chaſtiſement; a jail is only the neſt and den of iniquity; here offenders are only taught to revile their judges and jurors; here they meditate new ſchemes of ſedition. Would you impoſe a fine on them? that would be eaſily paid by ſome rich friend leagued in their conſpiracies. The humanity of the Lord Advocate would not ſuffer him to talk of inflicting corporeal puniſhment on gentlemen of education, and their reſpectability. From hence he infers the only puniſhment to be inflicted on them is baniſhment; but it has been proved to you, more than ſufficiently, that baniſhment cannot extend to tranſportation without annexing the name of the place deſtined for their exile. On what ground? Sedition has been defined to be public commotion; public commotion, by the laws of both countries, is high treaſon. Had they been indicted for ſedition, they muſt have been convicted of high treaſon, and muſt have ſuffered death. On this ground the judgment cannot be ſupported.

"But before I proceed any further, I would beg to addreſs a few words to my Hon. Friend (Mr. Windham). I confeſs I am aſtoniſhed to ſee that Gentleman ſo ſuddenly change his principles and profeſſions; commencing an alarmiſt, and affecting to tremble for his King and conſtitution. It is diſagreeable to tear up old but unpleaſing truths. I cannot, however, help reminding him, that there was a time, though he had not then a ſeat in this Houſe, when he took an active part, to bias the opinion of the people with reſpect to their Sovereign during the unhappy American war, and would not ſuffer the ſmalleſt encroachments of arbitrary power. It was a time when it was his chief delight to rally round the ſtandard of Liberty, and to invite and encourage volunteers in her ſervice; and I myſelf heard him ſpeak moſt diſreſpectfully of one of the Chief Juſtices; (I know not if the compliment was re-

turned.) I do not pretend to ſay he belonged to clubs; but this I am ſure, he was preſent at one or more; he ran about from town to town, converſing with artiſans on the raſhneſs of the war; and he delivered his ſentiments hoſtile to Government, at Norwich, and other places: He would have thought then he would have been hardly dealt with, if he was condemned as an enemy to his King and Conſtitution, becauſe he was an enemy to the American war.

"Why are Mr. Muir and Mr. Palmer to be conſidered as enemies, ſowing the ſeeds of ſedition, of anarchy and confuſion, for only pointing out to the people thoſe privileges which they ſhould enjoy, and which they are unjuſtly denied? Sedition is of a generic nature; there are different ſpecies of ſedition; and there is a ſpecies of ſedition of which the Lord Advocate himſelf has been guilty, with regard to this trial; one fact ſo glaringly ſcandalous, that I cannot paſs it over in ſilence; I allude to the conduct ſhewn two witneſſes on this trial; one of theſe, who was incompetent to give evidence, was admitted; whilſt the other, on the pretext of his credibility being doubted, was rejected. I contend, with reſpect to Ruſſel, the credibility of his evidence ought to be left to the jury, inſtead of the judge uſurping their province. With reſpect to Johnſon, I have only to obſerve, there was the greateſt partiality. The witneſſes were not fairly admitted, and conſequently Mr. Muir could not have a fair trial. I believe, Sir, the majority of this Houſe are Aſſociators; but I intreat them to recollect they are alſo repreſentatives; and let me aſk, if theſe aſſociations were founded on eſtabliſhed law; or were they ſelf-created? If they were not formed by the command of the Legiſlature, no man ought to be cenſured for not performing a duty which is not legally impoſed upon him; conſequently the Learned Lord muſt have been hurried into an intemperate warmth of unguarded aſſertion, when he declared, that, on Mr. Muir's objecting to one of thoſe Gentlemen being on his jury, who belonged to an aſſociation which had prejudged him before his trial, that "if this objection be not repelled, he could have no jury at all to try him, but men who were either traitors or conſpirators;" for that all men really attached to the conſtitution had ſubſcribed their names to aſſociations of this nature.

"But there is one ſtrange aſſertion made by one of the Lords of Juſticiary: He ſays, "no man has a right to ſpeak of the conſtitution, unleſs he poſſeſſes a landed property; men of perſonal property, though they may have immenſe ſums in the funds, ought not to ſay any thing:" How abſurd, how nonſenſical, how ridiculous! When judges ſpeak thus with levity,

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at random, with ignorance, what is the inference I would draw? that the temper of judges is manifold, from ſuch conduct, a like to which never occurred, even in the reign of the Stuarts. Another Learned Lord, in the exerciſe of his judicial truſt (a truſt repoſed in him by God and the people), has wandered aſtray into the *Roman law*, not finding any written precedent in the law of his country ſufficienty ſtrong to ſerve his purpoſe. Having recourſe to this extra-judicial authority, he at laſt diſcovered, that, according to that law, the puniſhment for this offence, as there ſtated, was either to be torn by horſes, thrown into a den of wild beaſts, or tranſportation. He therefore choſe the mildeſt puniſhment which could be inflicted on the unfortunate Gentleman—*Tranſportation for fourteen years*, and that act of mercy extended to them. Theſe doctrines are not to be endured, ſpoken on the moſt ſolemn occaſion from the ſacred bench of juſtice, by a judge, by one who was performing a duty of the moſt ſolemn nature, and who diſguiſed it under the moſt barefaced hypocriſy. This ſhews the ſcandalous proſtitution of juſtice, and that candour and diſpaſſionate temper, which characterized the bench.

"Another of theſe Lords (for with their names I profeſs myſelf unacquainted) aſſerted that now the torture was baniſhed, there was no adequate puniſhment for ſedition. Here is language which alſo ſhews the temper, the ignorance, the levity, the hypocriſy of this imprudent man: Let him be either ſerious or in jeſt, the ſentiment was equally intolerable; I know not which of them advanced it, but God help the people who have ſuch judges.

"I admit the conduct of a Lord Advocate is leſs material than that of a Judge; but I do not think that in Great Britain any perſon ſhould be declared *guilty* before he is arraigned and convicted of the offence. Shall we ſend Muir, Palmer, Skirving, Margarot, and Gerald to England? ſaid the Lord Advocate. But here he acts with reſpect to Mr. Gerald as he did to Mr. Muir, and ſuppoſes him guilty without ever being brought to a trial. The abuſe of diſcretion was made a topic of debate; but I aſſert, that when theſe Lords had diſcretion, they ſhould look to England. Her legal character was not deſpicable; they might have regulated their conduct by an emulation of her's. What was the caſe here? In the caſe of a clerical Gentleman of the name of Winterbottom, the Attorney-General's humanity had been eminently conſpicuous. For ſedition Mr. Winterbottom was to be fined and confined. He had unaccountably been thrown into *Clerkenwell Priſon* among the *common felons*. As ſoon as the Attorney General learnt his treatment, with all that humanity which does honour

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to his feelings, he immediately ordered Winterbottom to be removed to the *State Side of Newgate*, exclaiming—"God forbid that a Gentleman, guilty of a *miſdemeanor* only (for ſuch hec onſidered *ſedition*), ſhould remain the ſhorteſt ſpace of time in the company of *felons!*" But mark the contraſt! The confinement with felons for *one day*, or *even one hour*, wounded the very ſoul of the Attorney General of England; but the Scotch judges think it no hardſhip (nay, they deem it mercy) to inflict puniſhment for *life!*

"How different was the conduct of the humane Court of Juſticiary! they ſend the unjuſtly accuſed and convicted, to herd with the moſt infamous and moſt abject, and even think this puniſhment too mild for the offence. I wiſh Gentlemen would ſpeak out what their notions are of the law of Scotland. Let us, for Heaven's ſake! be informed what the opinion of the Houſe is on this tyrannical law. Were I to live in Scotland, I would conclude my life, my property, and my liberty inſecure. I would place no confidence in enjoying either. Sir, it cannot eſcape Gentlemen, that, not many years ago, there were Aſſociations in this country formed exactly on the ſame principles that Mr. Muir and his friends had formed their Aſſociations. Sir, it is preciſely for thoſe very offences which were committed by thoſe very aſſociations in England, that Mr. Muir and Mr. Palmer are now condemned to tranſportation for fourteen years.

"But it will be ſaid, that the French revolution has changed the nature of affairs. It may be ſo; but I wiſh never to believe that what was once meritorious, what was once fit, and what was conſidered as the only means of preſerving the liberties of our country, can have all of a ſudden ſo changed its complexion, can become ſo black and atrocious a crime, as to call down on the head of him, who ſo far reveres the conſtitution of England as to wiſh to reſtore it to its primitive perfection, the unrelenting vengeance of perſecution; while thoſe very men, who perhaps ſet this fatal example, have fled into the arms of power, as into an aſylum, and are now enjoying the emoluments of the higheſt places this kingdom knows, the wages perhaps of their apoſtacy. Yes, theſe unfortunate gentlemen have done what the Chancellor of the Exchequer and the Duke of Richmond have done before them. They have done no more. Will this Houſe forget the addreſſes of theſe two Gentlemen to the people? and this not to petition for a reform in Parliament, not ſimply to ſtate the abuſes, and in the manner of ſuppliants to pray for redreſſes of thoſe abuſes, but to demand (I ſay demand) them as their right. As long as Gentlemen ſhall remember the Thatched Houſe,

and theſe very Aſſociations, it is impoſſible they can forget their Addreſſes to the People. O human folly and inconſiſtency! Why are theſe very men now exalted to the moſt envied ſtations, while poor Muir and Palmer are doomed to waſte out the remainder of their lives in a foreign, in a moſt dreary climate; the companions of outcaſts, felons, the moſt degraded of the human ſpecies! And have we not at ſome period or other all of us called aſſemblies? Have we not all of us been guilty of crimes which might drive us to Botany Bay? Happy am I to boaſt, that however I may diſapprove of thoſe violent proſecutions which have been conducted in this country againſt individuals on charges of ſedition, which, when compared with the trials now before us, are merciful and humane; happy am I to boaſt, that it is my fortune to be a ſubject of, and to live in England. Were I a native of Scotland, I would inſtantly prepare to leave that land of tyranny, and of deſpotiſm! Till theſe infamous laws be abrogated, you may talk of juſtice; you may talk of juries; but all trials are mockeries! Till theſe infamous laws are abrogated, the liberty of the ſubject is unſafe and unprotected; and Scotland, like France, is a land of deſpotiſm and oppreſſion.

"Till ſuch time as there is a law to ſend me to Botany Bay for avowing my ſentiments, I ſhall think it a duty incumbent on me to condemn the actions of thoſe in power, whenever they call forth the general execration of mankind. If England, unhappily relapſing into deſpotiſm, ſhould ever be governed by ſuch principles, then farewell, a long farewell to our boaſted freedom! And ſure I am that no country connected with it can ever enjoy civil liberty!"

The Chancellor of the Exchequer ſaid, it would be unneceſſary for him to detain the Houſe long, after ſo ample a diſcuſſion of the ſubject. In order to prove the legality of the proceedings in the trials alluded to, and the ſound diſcretion exerciſed by the Judges, little more was neceſſary than to recapitulate ſome of the arguments of the Lord Advocate; though, in doing ſo, he was apprehenſive that they would loſe much of their impreſſion. The grounds of diſcuſſion were ſimple; and, in his opinion, an inquiry into this buſineſs would lead to the concluſion, that no doubt could be entertained, either of the legality of the trials under review, or of the propriety of the manner in which the Lords of Juſticiary had exerciſed their diſcretion upon the occaſions. Upon a general view of the various aſpects under which the queſtion had been conſidered, it would appear that the legality of theſe ſentences would depend altogether on the conſtruction and operation of the act of 1703, which recogniſed the power of tranſportation in the Judges;

Judges; which power was acted upon eight months afterwards by the very perſons. He alſo quoted a ſtring of caſes from the year 1587, down to the preſent time, in which the ſentence of tranſportation beyond the ſeas was occaſionally inflicted. By the common law of Scotland, the Judges poſſeſſed an arbitrary power to regulate all puniſhments ſhort of death, where there was no ſpecific puniſhment preſcribed by the ſtatutes; and by the before-mentioned ſtatute of 1703, the Court of Juſticiary was empowered, under the general term Baniſhment, to pronounce ſentence of tranſportation. The judgment of 1704, by which the act of the preceding year was enforced, was conſidered by Mr. Fox as of no authority, as it was done by order of the Privy Council, which came in for a liberal ſhare of his ſevere invective. But however applicable ſuch invectives might be to former periods, under the reign of ſome of the Stuarts, they by no means applied to any period ſubſequent to the Revolution; for unqueſtionably the reign of King William, or the Whig government of Queen Anne, were certainly not inauſpicious to Britiſh liberty. That the power had not been of late ſo frequently exerted, was owing merely to times and circumſtances not demanding it. By arguing upon the preſent caſes, as caſes of leaſing-making, his Honourable Friend (the Lord Advocate) did not mean to aſſert, that even for that offence judgment of tranſportation might be pronounced; but had only remarked, that, in his opinion, it was moſt proper to prefer indictments for ſedition, which made the delinquents liable to incur arbitrary puniſhments, according to the Scottiſh law. Previous to the paſſing of the act of Queen Anne, leaſing-making, under various modifications, was made a capital offence by different acts of Parliament. The object of that ſtatute was to take away the capital puniſhment of the crime, and to ſubſtitute fine, impriſonment, and baniſhment, or any corporeal puniſhment in its ſtead. Upon an attentive conſideration of the ſtatutes, to which he begged leave to refer the Houſe, it would, however, appear, that the term Baniſhment had not been uſed as pointing out any particular way in which a puniſhment was to be inflicted, but had only been ſtated as one among the many modes of arbitrary puniſhments, which the Court of Juſticiary were by that ſtatute empowered to ſubſtitute in lieu of the capital one which was formerly uſed. If, therefore, the puniſhment annexed to theſe crimes was arbitrary, the Legiſlature muſt certainly have meant to inveſt the Judges with a diſcretionary power; and as the Parliament had frequently ſpecified the exerciſe of the mitigated mode of baniſhment to which ſome Gentlemen had alluded, it would follow, that where no

ſuch

ſuch ſpecification had been made, the general power of baniſhing, according to the utmoſt extent of the term, was meant to be given to the Judges of whom he ſpoke. From a variety of precedents which had occurred from the year 1687 to 1754, it would appear, that the term Baniſhment had been uſed in the ſenſe put upon it by his Hon. Friend (the Lord Advocate), and that the ſtatute of Anne had adopted it in the ſame manner.

Having ſtated the different precedents, the Chancellor of the Exchequer proceeded to remark, that in all the inſtances which he had adduced, the ſentence of baniſhment had been followed up by orders for tranſportation. The whole, therefore, of an Hon. Gentleman's argument, proceeded on his having confounded the diſtinction between capital and arbitrary puniſhments. That the ſtatute of Anne meant to give the Judges the power of ſubſtituting the latter in lieu of the former, would appear ſtill more evident from the caſe of Bailey, which happened ſoon after the ſtatute was paſſed. In order, however, to evade the force of this precedent, a violent attack had been made upon the Privy Council, by which the ſentence was pronounced. For ſome years previous to the Revolution, eſpecially during the reigns of Charles and James the Second, he admitted that the proceedings of the Privy Council were juſtly obnoxious to the people. But, after the Revolution, that Council was not ſuppoſed to be inimical to the progreſs of civil liberty; on the contrary, during the reigns of King William and Queen Anne, the members of it were always deemed the moſt zealous friends to the freedom of the nation. It had been argued againſt the authority of this precedent, that the Parliament had deliberately ſuffered the law which it paſſed to be violated by this Privy Council, as another puniſhment had been added to thoſe which had been pointed out by the act. This argument, however, proceeded upon a miſconſtruction of the act in queſtion: The puniſhment was arbitrary; and it being ſo, the pillory might be ſuperadded to it without any violation of the law in queſtion.

At this diſtance of time it was impoſſible that we could preciſely know the objects which the ſentence againſt Bailey had in view; but the preſumption ought ſurely to be, that the ſentence was legal, and that conſequently the Court had the power of ſuperadding corporal puniſhment and infamy to fine, impriſonment, and baniſhment. It might, perhaps, be contended, that all theſe remarks on leaſing-making were ſuperfluous, becauſe the preſent offences had been ſtated as inſtances of ſedition; and from thence Gentlemen had been pleaſed to conclude, that they were not at all puniſhable by the exiſting law

aſſociates of the vileſt convicts; but it muſt be remembered, that they knew what they were incurring, and that they were propagating principles which ſhould never be the growth of liberal and well-educated minds. Conſidered as gentlemen of ſome ſtation, the bitter reverſe of their condition was the more deplorable; but their being gentlemen was not a ſufficient reaſon why any exception in their favour ſhould be made of theſe laws, framed for the government of his Majeſty's ſubjects in general.

With regard to the pretended accuracy of the accounts which had been publiſhed of the trial, and particularly thoſe which reported the ſpeeches of the Judges, he gave no credit to it. They put a ſcrap of Latin into the mouth of one judge, and a deduction from the Roman law into the mouth of another, which, if uſed at all, muſt have been uſed by way of illuſtration.

He declared himſelf well ſatisfied of the legality of the ſentence, and ſaid he was not diſpoſed to entertain ſurmiſes to the prejudice of the Judges, on account of any miſtaken expreſſions they might have uſed; nor would he think it at all neceſſary to enter further than he had done into any juſtification of his Hon. Friend (the Lord Advocate) with regard to the part he had acted in this buſineſs, nor of his own behaviour in the queſtion of Parliamentary Reform; and, laſtly, he had no ſcruple to ſay, that he ſhould have thought the Judges highly culpable, if, veſted, as they were, with diſcretionary powers, they had not employed them for the preſent puniſhment of delinquents, and for preventing the future diffuſion of their doctrines.

Mr. Fox explained, and corrected Mr. Pitt in ſome of his recapitulations of his (Mr. Fox's) ſpeech. He alſo denied that he belonged to an aſſociation of the deſcription alluded to by the miniſter. He was indeed one of a meeting in which it was thought right to make conſtitutional profeſſions, and to aſſiſt the civil magiſtrates in carrying into effect the authorities veſted in them, in caſe any tumults or inſurrections ſhould actually take place; but he had not become a ſubſcriber, and he thought he never ſhould, for the purpoſe of proſecuting any individual circumſtanced as Meſſrs. Muir and Palmer were. He moved for that part of the Bill of Rights to be read which treated of ſevere and exceſſive puniſhments; which having been done,

Mr. Adam roſe to claim the attention of the Houſe to a ſhort reply, as ſeveral circumſtances which had fallen from the Lord Advocate, Mr. Pitt, and Mr. Windham, required obſervation. Firſt, the Learned Lord had accuſed him of *ignorance*

norance of the law of Scotland. He hoped it was not his habit to boaſt of his knowledge on any ſubject; but it was his pride to boaſt of attention and deference to that Houſe; and theſe feelings made him always exert himſelf to be maſter of the ſubjects which he had occaſion to diſcuſs within thoſe walls. He had done ſo in the inſtance before the Houſe; and he was not ready ſo far to diſqualify himſelf as to ſay, that he was incapable of being maſter, with profeſſional habits, of ſuch a ſubject as the preſent. The Learned Lord had boldly charged him with an erroneous account of the act of 1703, and ſaid, he would give its true hiſtory. Mr. Adam ſaid, he had watched and liſtened for that hiſtory, but in vain, for it had never been given.

The Learned Lord had ſaid, that he (Mr. Adam) had applied to this caſe the rules of Engliſh pleading. He called upon the Learned Lord to ſpecify in what inſtance. He would ſhew that throughout he had put every part of the caſe upon the rules of the Scotch law; for inſtance, *art and part*, or the law of acceſſory. He admitted the mode of pleading in Scotland to be more large and uncertain, in point of time laid, than in England: His objection was not to that; but to this, that the facts proved under *art and part* were facts that did not fall within the time laid in the indictment. He defied the Learned Lord to prove, that the abuſe of the Courts of Juſtice, proved by Anne Fiſher, was within the time laid down in the indictment. With reſpect to the evidence of Ruſſel, he never had alledged it to be the law of Scotland, that if a witneſs was proved to have been inſtructed, that witneſs was competent; but the queſtion here was, whether Ruſſel was or was not inſtructed? It was ſuppoſed that he had prevaricated on that ſubject; if ſo, the teſtimony of the witneſs muſt go to the jury, who were alone judges of the credibility of a witneſs; and prevarication was invariably a queſtion of credit, not of competency.

It had been ſaid, that if the witneſs had been ſpoken to after his citation, reſpecting his evidence, it was a ground of rejection. The propoſition ſo ſtated, he could not admit to be the law of Scotland; it might be, that if the party, or agent of the party, ſpoke to the witneſs after citation reſpecting his teſtimony, that would be a ground of rejection. But that was not the caſe here; for there was no proof that the party, or his agent, had ſpoken to him.

With regard to the queſtion reſpecting the jury, the Learned Lord and Right Hon. Gentleman (Mr. Pitt) had argued it as if it was an objection of a general nature that went to all abhorrers of crime. It was no ſuch objection; it was one that went

went to the ſpecific act charged, and to the perſon againſt whom it was charged. The act charged was recommending Paine's book. The ſociety had offered a reward for the diſcovery of the publiſher of it. They had done more; they had come to ſpecific reſolutions with regard to Mr. Muir himſelf, which ſhewed that they conſidered him as a guilty perſon. What was the caſe of Lord Balmerino? Lord Blantyre was aſked whether he had ſaid of Lord Balmerino, that he had been a guilty perſon? Lord Blantyre ſaid he could not ſwear he had not. Lord Blantyre was not permitted to paſs upon the jury; and ſhall that be permitted now, which was not permitted in 1635?

The two Gentlemen oppoſite, and his Right Hon. Friend (Mr. Windham), had all mentioned a moſt extraordinary propoſition, That baniſhment was the generic term, of which tranſportation was a ſpecies, or one of the modes of carrying it into execution. He was particularly aſtoniſhed at that argument from his Right Hon. Friend (Mr. Windham), who was a ſcholar, a grammarian, and a philoſopher. No ſyſtem of grammar or philoſophy had ever ſo claſſed things: The genus here was the leſſer, the ſpecies was the greater; in as much as baniſhment was a leſs aggravated, and tranſportation a more aggravated puniſhment. In every ſyſtem of philoſophy, or grammar, the genus was the more comprehenſive. The fact was, ſuch an analogy would not do; for though thoſe puniſhments had one common quality (expulſion from the ſociety), baniſhment was an expulſion with liberty to go any where; tranſportation with confinement to a particular place; and pillory and whipping might as well be ſaid to be of one claſs.

As to the Act of 1696, Mr. Adam ſaid, that the tranſportation of bankrupts did not affect his argument, for it did not follow, that becauſe bankrupts had been tranſported, leaſing-makers, or exciters of ſedition, could be alſo tranſported; becauſe the puniſhment could not be transferred from one crime to another. The Act of the 6th George III. had recogniſed tranſportation, but only in caſes which had happened, not in caſes where it never had been uſed; and the Bill of Rights, which was extended to Scotland by the Union, made all unuſual puniſhments illegal. But it was contended, that this expounded the term Baniſhment in the Act of 1703. Mr. Adam denied that concluſion; he ſaid the fair way of expounding the Act of 1703, was to refer to acts *in pari materia*, that is, to the Act of 1609; there baniſhment was one puniſhment for leaſing-making; and in that act, baniſhment could not mean tranſportation, for there was no place to which to tranſport.

Beſides,

Beſides, the Act of 1670 gave the fair ſtatutory expoſition of the two puniſhments, by making the diſtinction between baniſhment to the plantations, and baniſhment, ſimply meaning expulſion. When more was meant than baniſhment, that is, when tranſportation was meant, the words *to the plantations* were added.

The Chancellor of the Exchequer had, he obſerved, attempted to put the conſtruction of the Act of 1703 upon the words *arbitrary puniſhment*, and therefore inferred, that baniſhment meant tranſportation, which was an arbitrary puniſhment, but he had forgotten the expletive: The Act ſaying that it ſhall be an arbitrary puniſhment, that is, by fine, impriſonment, or baniſhment; life or limb not to be affected. But baniſhment was an arbitrary puniſhment, as well as tranſportation; and it was much more probable that the arbitrary puniſhment which was named, and not that which was not named, was the arbitrary puniſhment meant.

As to the caſe from the Privy Council, the Lord Advocate would recollect it, for he was Counſel againſt him in the caſe of an Appeal being competent in the Court of Juſticiary, when he (Mr. Adam) argued its competency, upon the ground of the Privy Council being a ſuperior Court, and having entertained appeals from the Juſticiary, and that that Court being aboliſhed, the Houſe of Lords ſhould come in its ſtead. He had ſtated caſes as low as the Revolution, when he was told by the Noble Lord who preſides in the Houſe of Lords, that caſes from ſo odious a tribunal could not be admitted. Mr. Adam ſaid, he hoped if that objection was made when the rights of the ſubject were to be ſuſtained by authority, it would not be argued that the Privy Council was good authority where it made againſt the ſubject. What! was this Privy Council caſe in 1704 relied on as a contemporaneous expoſition of the word Baniſhment, the party having been tranſported for *leaſing-making?* Whereas the only thing it proved was, that the tribunal exceeded its authority, and diſregarded an Act of Parliament. The caſe ſtood upon the aſſertions he had made, and which had not been denied.

There was no caſe in the Records of Juſticiary, Mr. Adam ſaid, where the puniſhment of tranſportation had been inflicted. But there were caſes where the inferior puniſhments had been inflicted. The Lord Advocate had produced none; neither had he controverted his other propoſition, that there was no inſtance of ſedition charged as *crimen per ſe*; nor any of ſedition being puniſhed with tranſportation.

Mr. Adam then ſaid, nobody could deny that the caſes were merely leaſing-making. Indeed, that of Mr. Palmer being ſo, had not been controverted. Would the mere circumſtance of

not laying thoſe crimes upon the ſtatute vary the puniſhment? Suppoſe the day after the Act of 1703 paſſed, an indictment had omitted the ſtatute to avoid the ſtatutary puniſhment, could the court have ſuſtained ſuch an evaſion? And if it would not have done ſo then, ſhould the lapſe of time make any difference in the caſe?

As to the diſcretion, he was aſtoniſhed to hear the Right Hon. Gentleman's (Mr. Pitt's) doctrine; that, becauſe he thought the law clear, it was therefore ſound diſcretion to puniſh to the extent of the law. Was that the meaning of a diſcretionary puniſhment? Did the ſtate of ſociety call for it? Did the comparative ſtate of the law of England juſtify it? Mr. Adam ſaid, he conſidered the Right Hon. Gentleman as ſtanding in the double capacity of a Member of Parliament and adviſer of the Crown. Did the Hon. Gentleman think that he acted a wiſe part in either character, by permitting a ſentence to be enforced, which weakened and rendered ineffectual the laws of England, and admitted ſuch unjuſtifiable ſeverity in thoſe of Scotland; which ſanctioned a puniſhment in one part of the kingdom, living under the ſame executive and legiſlative government, that was inconſiſtent with the mildneſs and lenity of the law of the other part of the kingdom? Above all, the Right Hon. Gentleman, as an adviſer of the Crown, ought to reflect, that one of the principal features of the crime is having taken meaſures to promote a Parliamentary Reform; a meaſure which the Right Hon. Gentleman once approved and promoted, but for which he was now to permit thoſe unfortunate perſons to ſuffer a puniſhment the moſt afflicting and humiliating.

The Chancellor of the Exchequer roſe to explain: He denied that Meſſrs. Muir and Palmer had only maintained thoſe doctrines concerning Parliamentary Repreſentation which he himſelf had formerly advanced. It was notorious that Mr. Muir was not in the indictment charged with exciting a Reform in Parliament, but with diſperſing and recommending Paine's pamphlet, and other ſeditious writings; and as to Mr. Palmer, he was not at all charged with endeavouring to promote a Parliamentary Reform, but with vilifying this country in compariſon of a country with which we were at war, by ſaying that the war was juſt on the part of the enemy, and conſequently unjuſt on our part.

Mr. Grey ſaid, that he would not have taken up the time of the Houſe at that late hour, had not the ſtrange doctrines advanced that night compelled him to riſe. In conſequence of the Chancellor of the Exchequer having aſſerted, that the Judges of the Court of Juſticiary in Scotland, were warranted in having paſſed ſuch ſevere ſentences on Meſſrs. Muir and Palmer,

Palmer, he took occaſion to ſtate what the offences were of which theſe gentlemen had been accuſed. Mr. Muir, he obſerved, ſo far from recommending Mr. Paine's pamphlet, had ſaid that it went too far; and the war with France had not commenced till ſix months after the circumſtances upon which the proſecution was founded. Let it, ſaid Mr. Grey, be remembered, that the Right Hon. Gentleman had acted on their principles at the meeting at the Thatched Houſe in 1782; that the doctrines promulged from thence by Mr. Pitt and the Duke of Richmond were of the ſame tendency and nature with thoſe of the unfortunate gentlemen; nay, that the Duke of Richmond had gone greater lengths than either of them, in recommending an Univerſal Suffrage; and telling the people, that they muſt depend on their own exertions in procuring a Parliamentary Reform; that the efforts of the Noble Duke, and the Chancellor of the Exchequer, in 1782, on that ſubject, might be regarded as the cauſe of the exertions of Meſſrs. Muir and Palmer in Scotland. But what was the reſult? The Noble Duke and Mr. Pitt ſat in his Majeſty's Cabinet, and gave their ſanction for carrying into execution the ſevere ſentences paſſed on Mr. Palmer and Mr. Muir, that they ſhould be baniſhed for fourteen years, and doomed to live with the outcaſts of ſociety.

Mr. Grey concluded by declaring, that he entirely agreed with his Right Hon. Friend Mr. Fox, *That if the criminal laws of Scotland were extended to England, then it would no longer be the country where a freeman could live.*

The Houſe divided—

For the Motion 32*—*Againſt it* 171——*Majority* 139.

Adjourned.

* Liſt of the Minority on the Motion of Mr. Adam, on Monday, March 10, 1794.

The Rt. H. Charles J. Fox	Colonel Tarleton
Sam. Whitbread, Eſq.	M. A. Taylor, Eſq.
Major Maitland	Philip Francis, Eſq.
Lord John Townſhend	James Walwyn, Eſq.
Lord William Ruſſell	William Plumer, Eſq.
Hon. St. Andrew St. John	William Smith, Eſq.
Lord Robert Spencer	James Hare, Eſq.
General Fitzpatrick	George Byng, Eſq.
Hon. T. Erſkine	Earl Wycombe
William Adam, Eſq.	Hon. Edward Bouverie
Dudley North, Eſq.	Hon. W. H. Bouverie
Thomas Thompſon, Eſq.	Sir Edward Winnington, Bart.
Henry Howard, Eſq.	R. P. Knight, Eſq.
Benj. Vaughan, Eſq.	John Harriſon, Eſq.
Colonel Macleod	John Courtenay, Eſq.

TELLERS.

R. B. Sheridan, Eſq. Charles Grey, Eſq.

HOUSE OF LORDS.

WEDNESDAY, *March* 12.

Read a third time, and paſſed, the Buckingham Canal Bill.

Ordered the hearing of Mr. Bridges, on his claim to the Barony of Chandos, to be poſtponed till the 10th of April.

Brought up from the Commons, Zobell's Naturalization and an Incloſure Bill, which were read a firſt time.

HOUSE OF COMMONS.

WEDNESDAY, *March* 12.

The Penny Poſt Bill, Jerſey Poſt Bill, Shelton Incloſure Bill, Zobell's Naturalization Bill, were read a third time, and paſſed.

Petitions from Swanſea, in favour of Swanſea Canal, and from the Durham Woolcombers, were preſented. To lie on the Table.

The Reſolutions of the Committee on Scotch Spirits were reported, agreed to, and a Bill ordered.

The Leeds and Liverpool Canal Extenſion Petition was preſented, and Inſtructions to make Proviſion in the Bill.

On the Report of the Rochdale Canal Bill, a Clauſe was propoſed, on which the Houſe divided,

For the Clauſe 56.—*Againſt it* 42.

In the Committee on the Attorney's Tax Bill, Mr. Roſe introduced a Clauſe to prevent Attornies on the Welch Circuit from practiſing here, unleſs they paid the new duty.

HOUSE OF LORDS.

THURSDAY, *March* 13.

The Bank of Scotland Bill was ordered to a Committee on Monday the 17th.

SLAVE TRADE.

The Houſe reſolved itſelf into a Committee on the Slave Trade, when Mr. Gilbert Franklyn was called to the bar, and underwent an examination till half paſt five o'clock, when the further proceeding in this buſineſs was adjourned till Tueſday, the 8th of April.

A Petition was preſented by the proprietors of the Dudley Canal Bill, praying to be heard by Counſel againſt the intended Extenſion Bill now pending in the Houſe; which was ordered to lie on the Table.

Adjourned.

HOUSE

HOUSE OF COMMONS.

THURSDAY, *March* 13.

Preſented an account of veſſels cleared out for Africa, of Pearl Aſhes, of Paper Duties. Alſo Petitions in favour of Swanſea Canal, againſt Newbury Canal, and Hull Docks. Ordered to lie on the Table.

The Woolcombers' Petitions, being reported, were ordered to be printed.

Read a third time, and paſſed, the Kingſton Road Bill.

Bills ordered—on expiring Laws, Ayr Harbour, and two Scotch Petitions.

To be engroſſed—North Allerton Incloſure and Attorney's Duty Bills.

MILITIA BILL.

The Committee on this Bill added various Clauſes, and the Report was ordered to be received on Monday the 17th.

EAU BRINK DRAINAGE BILL.

The Houſe went further into the conſideration of this Bill, and Counſel were called in and heard thereon.

Adjourned.

HOUSE OF COMMONS.

FRIDAY, *March* 14.

The Brick Duty Bill was reported, and ordered to be engroſſed.

The Rochdale Canal Bill was read a third time, and paſſed.

Accounts of Lynn Duties and Pearl Aſhes were preſented, and ordered to lie on the Table.

Bridgewater Bridge and Staffordſhire Hall Petitions were reported, and Bills ordered.

A Petition was preſented from the Woolcombers of Durham, and ordered to lie on the Table.

A Petition was preſented from the Coal-owners againſt the Leeds and Liverpool Canal Bill, and referred to the Committee, and to be ſupported by Counſel.

On the report of the Rochdale Canal Bill, a clauſe was moved for, in order, as it was ſtated, to deſtroy the Monopoly of the Duke of Bridgewater. A diviſion upon this took place, when the clauſe was thrown out:

For it 58—*Againſt it* 85.

Mr. Adam gave notice, that he ſhould, on a future day, renew the diſcuſſion of a ſubject which had occupied in ſome degree the attention of Parliament already; he meant that of the

the criminal law of Scotland. His object was to bring that conſideration forward in a form that had not been yet before the Houſe. He ſaid, he ſhould move for leave to bring in a bill for aſſimilating the criminal law of Scotland to the law of England; and that he ſhould make that motion on Tueſday the 25th.

SLAVE TRADE.

On reading the order of the day, for the recommitment of the report of the Committee of the whole Houſe, on the Bill for preventing the Supply of Foreign Territories with Slaves by Britiſh ſhips, or by Britiſh ſubjects,

Lord Sheffield ſaid, as he diſapproved the whole of the Bill, he meant to object to the recommitment; and neither the abundance of declamation which he had heard in other ſtages of the buſineſs, nor the uncandid ſuggeſtions, nor the denunciations againſt thoſe who preſumed to differ in opinion from the movers of the queſtion, ſhould prevent him from ſaying, that of all the attempts at the Abolition of the Slave Trade, this was the moſt ſenſeleſs.—He ſaid the moſt ſenſeleſs, becauſe it might do great miſchief, but could not poſſibly attain its object. The preſumed motive of the meaſure was humanity; the object of the Bill was to prevent the carriage of Slaves to the foreign Weſt Indies. He ſaid it muſt be obvious to every man of common ſenſe (within which deſcription he did not mean to include the enthuſiaſt who is led by his feelings and not by reaſon), that the purpoſe of humanity would be anſwered infinitely better by conveying negroes in Britiſh ſhipping, under good and proper regulations, than in the promiſcuous ſhipping of Europe, under no regulation at all. It was no leſs obvious that Britiſh law can only change the flag under which negroes ſhall be conveyed, but that not a ſingle Slave leſs will be carried to the Weſt Indies. A Britiſh act indeed might turn the trade into another channel, and deprive this country of great advantages in reſpect to navigation, and of much profit; but notwithſtanding the extravagant and deſpotic clauſes which were to be found towards the end of the Bill, which, from their interference with the management of property, would only revolt mankind, and would never be enforced, he could not help flattering himſelf that Britiſh merchants would find the means of fulfilling their contracts with the Spaniards, the Danes, and the Dutch, eſpecially with the former, by which many dollars would be brought into our iſlands, and the advantageous trade we have with the Spaniſh Weſt Indies would be preſerved.—Great Britain indeed will loſe the benefit of ſitting out ſhipping, a benefit of which

ſhe ſhould be moſt jealous, and inſtead of carrying many manufactures from this country, every article will be ſupplied at the foreign port where the ſhipping is equipped, to the great prejudice of this nation.—He obſerved, unleſs our traders had an opportunity of diſpoſing of a redundancy, that our plantations could not be ſure of a conſtant and ſteady ſupply. He ſaid, if the Bill ſhould paſs into a law, it would diſguſt the loyal well-diſpoſed planters, the merchants, and every rational man who really underſtood the ſubject; that nothing could be more impolitic nor unjuſt than the conduct which was held towards the Weſt Indians. He wiſhed the Hon. Mover of the Bill would in theſe feveriſh times ſpare his country; that he would ſpare the conſiſtency of his friends, whom he induces to promote one of the greateſt revolutions in reſpect to property and commerce which can be conceived, whilſt he thinks it neceſſary to declare againſt the ſlighteſt innovation or change in other matters, even where the propriety of that change is not doubtful. He concluded by ſaying, it would be as unpleaſant to him to repeat, as for the Houſe to hear, the arguments which have been ſo often urged on this ſubject. He ſhould therefore content himſelf with moving, that the Speaker do not leave the chair.

Mr. Wilberforce expreſſed ſome ſurpriſe at the oppoſition of the Noble Lord in the preſent ſtage of the Bill, and lamented that the Noble Lord had not favoured the Houſe with his attendance and remarks earlier, during the time that the Bill had been in the Houſe. If he had done ſo, he would have known that the recommitment of this Bill had been agreed to as a matter of courſe, and that all arguments on the principles of the Bill had been alſo agreed to be poſtponed to the third reading of it. If the Noble Lord, however, had delayed for a long time to deliver his ſentiments upon it, he ſeemed deſirous of atoning for that defect, by the great degree of violence which diſtinguiſhed his oppoſition. To the epithet of *enthuſiaſt*, with which he had been honoured by the Noble Lord, or to any appellation of a ſimilar kind, he certainly was reſolved to pay no attention. Whatever degree of regard he was diſpoſed to allow to the underſtanding of the Noble Lord, yet, if he paid any of the ſame effect to the deciſions of the Houſe, and conſidered that the abolition of this trade had been repeatedly voted for by a decided majority, the concluſion which the Noble Lord muſt form with regard to his own intellects could not be of the moſt favourable nature. He then juſtified himſelf as to his motives for preſſing this ſubject forward, and diſclaimed all idea of endangering the commercial intereſts of this country, at this or any other time; on the contrary,

contrary, he was convinced that the preſent Bill would add to the promotion of our commercial and other intereſts.

Lord Sheffield explained, and ſaid, he had been preſent on the former debate in the Committee on this Bill, and that the occaſion why he took no ſhare in oppoſing any of the proviſions of the Bill was, that his objection was to the whole of the principle, and therefore it was unneceſſary for him to enter on the detail of it.

Mr. Dent declared, that he would vote with the Noble Lord (Lord Sheffield) againſt the recommitment.

Sir William Yonge ſaid, that however inimical he might be conſidered to be with reſpect to the principles of the Bill, yet, from what had paſſed, he thought himſelf pledged to ſupport the recommitment.

Mr. Fox obſerved, that the Noble Lord who had juſt ſpoken, had ſtated his hope that the Bill, if paſſed into a law, would be diſobeyed: Now whether in theſe feveriſh times, as he termed them, it was a fit doctrine to hold out to a claſs of people that they ſhould diſobey an Act of Parliament, he ſhould leave to his Lordſhip's conſideration. The Noble Lord had alſo ſaid that the Act would be wholly nugatory. Mr. Fox hoped not; but even if he was convinced it would, he ſtill would vote for it; becauſe he ſhould think it ſomething gained to the cauſe of juſtice and humanity, if the Bill ſhould paſs, for it would convey to the world at large, by an authentic document, the ſentiments of the Parliament of Great Britain on this abominable traffic. He did not however think the Bill to be nugatory; and although it did not proceed ſo far as he could wiſh towards the ſuppreſſion of the Slave Trade, yet he thought it contained for that purpoſe proviſion of conſiderable importance.

The Houſe divided,

For the queſtion	89
Againſt it	47
Majority for the recommitment	42

The Houſe then reſolved itſelf into a Committee, Mr. Elliott in the chair, when ſeveral clauſes were propoſed and agreed to. The Speaker having reſumed the chair,

Mr. Lechmere roſe, and reminded the Houſe that he had laſt year given notice of his intentions to ſubmit certain regulations to their judgment in preference to a total abolition. Having briefly ſtated that he had learnt on a conſultation with ſome of his friends, that the Britiſh Parliament could not interfere in the internal regulations of the Weſt India iſlands, and finding he could not then give his ſentiments at large on the general queſtion of the total abolition of the Slave Trade,

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he could only ſay that this Bill appeared to him to be nugatory, as to the good propoſed to be done by it, and oppreſſive to many perſons, in as much as it prevented their diſpoſing of their property in the moſt advantageous manner.

Mr. Serjeant Adair objected to one of the clauſes propoſed in the Committee, which ordained, "that all perſons who ſhould make a wilful declaration of a falſehood, were to be puniſhed as if guilty of a miſdemeanour." The proviſion, he ſaid, would be nugatory; becauſe it would be in the power of the court, who ſhould try ſuch perſons, to fine them only ſixpence. He would therefore propoſe as an amendment, that, beſides a fine, the puniſhment of impriſonment, not exceeding twelve, nor leſs than three months, ſhould be inflicted; which amendment was unanimouſly agreed to. The amendments having been all read and agreed to, the Bill was ordered to be ingroſſed, and to be read a third time on Monday if then ingroſſed.

HESSIAN TROOPS.

Mr. Grey called the attention of the Houſe to the ſubject of which he had given notice, the queſtion of the Prerogative of the Crown in reſpect to landing Foreign Troops in this country without the conſent of Parliament. In what he had to ſubmit, he ſaid, he had the ſatisfaction to aſſure the Houſe, that it would not be neceſſary for him to trouble them at any conſiderable length. If, on a former day, when he had the honour of moving a reſolution relative to the introduction of foreign troops, it was juſtly a reproach to him that he had not afforded any new light on the ſubject, his detaining the Houſe for a long time on what he had at the preſent time to urge, would be a ſtill greater reproach to him, becauſe he confeſſed he had nothing to advance that was more applicable to the queſtion which he intended to ſubmit to the ſenſe of the Houſe that night, than what he had the honour of ſubmitting when he moved the former reſolution. He muſt ſay, however, nothing paſſed on that night that made it neceſſary, in point of conſiſtency, for thoſe who oppoſed his motion then, to oppoſe the motion with which he ſhould have the honour of concluding. Although he confeſſed he ſhould be able to adduce but very few arguments upon this queſtion, which were not applicable to the former one, yet the motion he ſhould make was of a different nature from that which he moved on a former day. The point which he had in view on a former debate, appeared to him ſo clearly founded on conſtitutional principles, and ſo well provided for by the laws of this country, that he did not ſee how it could be oppoſed on its own

grounds. So little, indeed, was the propoſition he then contended for denied, that the objections taken to this motion, were rather objections to the inexpediency of the meaſure he propoſed, than any diſtinct denial of thoſe rights upon which his propoſition was grounded.

Only four members in that Houſe had queſtioned the propoſition, "That the King had no right, either in time of peace, or in time of war, to land foreign troops in this country without the conſent of Parliament." Of theſe four, one Gentleman oppoſed him, although he avowed himſelf unprepared to argue and decide upon the queſtion of right. A ſecond naturally ſupported thoſe new friends, to whom he had, in common with others, ſo lately attached himſelf. A third had maintained the prerogative of the Crown to introduce foreign troops, without, however, going the length of ſupporting that prerogative in oppoſition to the declared ſentiments of the Parliament; and even this opinion was received with murmurs. A fourth had, indeed, gone ſo far as to maintain, that the King had a right, at his own will and diſcretion, independent of the conſent of Parliament, to introduce into this country any number of foreign troops; that his Majeſty would be juſtified in acting upon that prerogative in oppoſition to, and in contradiction of the concurrence of the Houſe of Commons: On the utterance of ſuch ſentiments a murmur pervaded the Houſe.

When the ſame opinion, with a little ſhade of difference, came from the miniſter, he was ſorry to ſay the ſame mark of diſapprobation had not followed. If the miniſter had done the which he ſaid he was ready to do, and what he ought to have done, and had ventured to come to a direct queſtion upon that ſubject, he did not believe that the miniſter could have found the majority ſo implicit in their attachment to his opinion as he found them on ſome occaſions. If the motion with which he ſhould conclude that night, ſhould only compel the miniſter to retract, or to qualify the opinion which he gave the other night, ſome good might ariſe out of it. The Houſe well knew the miniſter's powers, his eloquence, and his capability of either enlightening what was obſcure, or confounding what was clear, as his inclinations or his intereſts might lead him; and that where an opinion, though expreſſed, was to remain in doubt, a ſingle monoſyllable, an accommodating *if*, could ſo well be introduced, as to qualify that opinion to whatever point it afterwards might be found convenient to direct and apply it. But, on the occaſion alluded to, the miniſter's opinion had been given in too affirmative and unqualified a manner, to admit of the diſplay of that dexterity. The propo-

propoſition, as broadly ſtated by him (Mr. Grey ſaid), was, "That the King *had not*, by the principles of the conſtitution of this country, or by the law of the land, a right to bring into this country, in time of war or peace, any foreign troops whatever, without the conſent of Parliament." The miniſter declared he was ready to meet that propoſition with a direct negative; and therefore he muſt maintain the contrary propoſition, *viz.* "That the King *had*, without the concurrence of Parliament firſt had and obtained, *a right*, according to the principles and practice of the conſtitution of England, and the law of the land, to introduce foreign troops, to any number, whenever he pleaſed." Such opinions as theſe, coming from ſuch a quarter, and delivered in that Houſe, made it abſolutely neceſſary for him to come forward, and offer ſome meaſure that might prevent ſo dangerous a precedent, as that of maintaining and eſtabliſhing a moſt unconſtitutional prerogative in the Crown muſt eſtabliſh; a precedent which might in ſubſequent times prove fatal to the liberties of the country. As long as he had the honour of a ſeat in that Houſe, he would never loſe an opportunity of oppoſing ſo pernicious a doctrine; and although it might not be attended by complete ſucceſs at once, yet, by keeping the point up, and calling the attention of Parliament to it from time to time, at laſt they might receive a Parliamentary ſanction in favour of the Public, which no miniſter would dare hereafter to queſtion or to combat.

When the queſtion was debated upon a former night, it was treated by moſt of its opponents as an abſtract queſtion. One Honourable Member oppoſed it, on the ground of its being dangerous to agitate ſuch a propoſition under the preſent circumſtances. Another agreeing with him in the truth of his propoſition, objected however to the danger of the Houſe coming to a contrary concluſion. It was upon that principle, and with that view, that a Learned Gentleman (Mr. Serjeant Adair) had moved the *previous queſtion* on that occaſion. He did not wiſh to renew the diſcuſſion of what might be called an abſtract propoſition for its own ſake, but when the denial of that propoſition led to principles that were in their nature hoſtile to freedom, he felt no difficulty in maintaining an abſtract propoſition, and he ſaw no reaſon why the Houſe ſhould ſhun the diſcuſſion of it.—The queſtion here was, whether, in the landing of the Heſſian troops, there was not a practical breach of a clear eſtabliſhed abſtract propoſition? And this he maintained to be the fact. It came alſo a little inconſiſtently from the miniſter, to object to the diſcuſſion of an abſtract propoſition which he had created by his own doctrine, and

when he too had himſelf formed ſeveral important reſolutions on a well-known occaſion, and that merely in anſwer to the opinion of an individual (Mr. Fox's declaration reſpecting the Prince of Wales's right to the throne under certain circumſtances, on the Regency). A third objection was, that the declaration he propoſed was not called for by any neceſſity which could warrant it. He was ready to admit, that this objection was made before the ſentiments of the Chancellor of the Exchequer were divulged; and he would therefore wiſh to know how they could avoid coming to ſome concluſion on the ſubject, when they had heard the preſent infringement of the law ſupported by opinions coming from ſuch high authority. Upon the preſent occaſion, he ſaid, he did not mean to bring forward any abſtract queſtion. But he thought the landing of the Heſſian troops, however it might be juſtified by neceſſity, was ſo clearly againſt law, that the Houſe of Commons could not do better than make as ſpeedy an atonement as poſſible to the people for the breach of the conſtitution, by paſſing an act of indemnity, which, while it ſecured ſuch as had counſelled the act, bore teſtimony to thoſe principles ſo eſſential to the preſervation of our liberties. That the meaſure to which he alluded was illegal, he had no doubt; he underſtood it to be pretty generally admitted; and therefore he ſhould avoid many of the arguments he had before urged himſelf, and had heard from others upon that ſubject. It was objected to his propoſition, that it could not be founded on any poſitive law, becauſe no poſitive law could exiſt in analogy, or context of different acts and periods. But looking, as he did, at the general tenour of the Bill of Rights, and the liberal conſtruction which ought to be put upon it; and then from the poſitive Acts of Parliament, which followed that Bill of Rights; but emphatically from the Meſſage of King William, and the Anſwer of the Houſe of Commons to that Meſſage, by which they peremptorily refuſed to allow his Majeſty to keep his Dutch Guards even in time of peace: He would, from theſe authorities, maintain, that he was juſtified in aſſerting that, according to all theſe authorities, the King had no right, either by law, or the practice of the conſtitution, to bring foreign troops into this country at any time, without the conſent of Parliament. But it was ſaid that this occurred only in a time of peace, and therefore could not apply to the general principles. This was not the way he had put it; but that even in a period of great public danger and alarm, the Parliament had refuſed to admit the reſidence of foreign troops within the realm, as utterly contrary to the firſt principles and genuine ſpirit of our conſtitution. This point was ſupported alſo by the Act

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of Settlement, which ſaid that no foreigner could, under any circumſtance whatever, hold any office of civil or military truſt in this country; and by the Mutiny Bill, by which it appeared, that ſuch foreign troops, when in this country, could not by any legal means whatever be under any military law. Until, therefore, he heard ſomething better on the other ſide of the queſtion than he had yet heard, he ſhould continue to aſſert, that the landing of theſe troops was againſt the law, and the practice of the conſtitution of this country.

So clear was the point as to the employment of foreigners in any office of civil or military truſt, that the Act of the firſt of George the Firſt, which was an amendment of the Act of Settlement, enacted, That in every Naturalization Bill, it ſhould be expreſsly enacted, that the perſon naturalized ſhould not be capable of holding any office of civil or military truſt. This being the caſe, he wiſhed to know what was the legal ſituation of all the officers who commanded theſe Heſſians in this country? Was not theirs an office of military truſt? He expected therefore to hear ſome better reaſons than he had yet heard in ſupport of the doctrine of the conſtitutional right of the King to bring foreign troops into this country. He knew that it was againſt the practice as well as the principles of our free conſtitution. He might, indeed, be told of ſome precedents to the contrary. But if there were any ſuch precedents, he was prepared to ſay they were inſignificant, and not to be relied on as any ſort of authorities. He would go further, and ſay, that if there had been an uninterrupted ſeries of precedents, from the Revolution down to the preſent hour, they were nothing, if they were contrary to law; for no number of precedents could ſanction illegality; and that which was once proved to be unjuſt, muſt for ever remain ſo, notwithſtanding the number of inſtances in which it was repeated. In point of hiſtory, he maintained, that the precedents were in favour of his propoſition; and he challenged any lawyer in that Houſe to ſhew the contrary.

Let him for a moment aſk, what was the fact to which he referred? A foreign force had actually been introduced into the country. Was this, or was it not, a violation of the law of the land? If it was a violation, and ſuch a one as exiſting circumſtances rendered a neceſſary one, ought not that Houſe to paſs an Act of Indemnity in favour of the adviſers of the meaſure; and not, by their ſilence, run the riſk of eſtabliſhing a precedent ſo dangerous in its principle, ſo ruinous in its conſequences? Some Gentlemen had the ingenuity of diſcovering, that the introduction of foreign troops, without the conſent of Parliament, was, generally ſpeaking, illegal; yet, that

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it was not ſo in the preſent inſtance, inaſmuch as in the preſent inſtance it was conſidered merely as a rendezvous. He confeſſed his organs were too blunt to be capable of making thoſe nice diſtinctions. He only knew that the troops were here, and that they were ſo contrary to law. Mr. Grey ſaid, he muſt repeat what he had ſaid on a former occaſion, that it was not from any diſtruſt in his Majeſty, or that he ſuſpected his Majeſty's deſigns, that occaſioned his inſiſting on this conſtitutional point. He had no ſuch ſuſpicion or diſtruſt, but he wanted to guard againſt the eſtabliſhment of a dangerous doctrine, and againſt the eſtabliſhment of a dangerous precedent, ſuch as the preſent might be, if not done away by the conduct of the Houſe of Commons. Whatever confidence miniſters might have in the propriety of their having acted from neceſſity, and therefore that they needed no indemnity for what they did, the Houſe of Commons ought to take care of the principles of the conſtitution, and not paſs over an illegal act to gratify the pride of miniſters, who might think themſelves too ſecure to need any indemnity whatſoever: That was a ſort of pride in which the Houſe ſhould not indulge any perſons, when ſuch indulgence might lead to the moſt dangerous conſequences.

He wiſhed the Houſe to look at the poſſible effect of ſuch a meaſure as this. If foreign troops were to be introduced into the kingdom for the purpoſe of interference in any domeſtic broil (an event he earneſtly deprecated), the caſe would be manifeſt, and ſpeak for itſelf. That the King had the prerogative of carrying on war, and conducting all the military operations of the country, he did not mean to diſpute, the particular details of which it would be imprudent, perhaps dangerous, to reveal. If then he were poſſeſſed of this right of introducing foreign troops, what dangerous project might not be concealed under that pretext? As Elector of Hanover he might introduce a number of his electoral troops; he had beſides, as ſubſidies for Germany, various petty Princes, and States, which were too numerous and uncouth to name in an Engliſh Houſe of Commons. From theſe he might introduce foreign troops. He was engaged with the greateſt, and almoſt all the powers of Europe, in a war againſt France; he might conſult with all theſe, and it might be agreed that troops from Hanover, from Auſtria, from Pruſſia, and Ruſſia, ſhould be brought to this country, to any number; the whole was to be legal, if a gracious meſſage came from the King that ſuch a thing had been done! Where was, then, the ſecurity of this country for its freedom, when the King could introduce ſuch a foreign force as would terminate all diſputes about their rights? The miniſter could talk of prerogative, and the on-

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trol over it by Parliament; but he would aſk him, what would become of this control if ſuch a circumſtance as he had deſcribed ſhould ever take place? The conſtitution was founded on eternal principles, to the obſervance of which it muſt owe its preſervation: Of theſe he conſidered it as an eſſential one, that the Crown had no right to introduce foreign troops without the conſent of Parliament; and he dared even the new converts and confidants of the miniſter to deny his poſition. To the evil which he ſtated, and of which he complained, what was the remedy he propoſed? A Bill of Indemnity. Did this hurt the pride of the miniſter, or was he to be deemed incapable of having erred? Would any Gentleman ſtate the inconvenience attendant on ſuch a meaſure? If they wilfully refuſed his propoſition, what remained on the other ſide? The law violated, and a precedent eſtabliſhed, pregnant with the moſt miſchievous conſequences. Let the Houſe reflect on this, and let them not be too confident in the profeſſions of any man: He was ſure, if experience was the rule to guide us, we had no reaſon to rely on the advice which the preſent miniſter might give to the Throne, for he had already adviſed it to act in defiance of the declared ſenſe of the Houſe of Commons. In ſhort, he thought the Houſe, in all meſſages from the Throne, ſhould remember the anſwer of Sir Edward Coke (afterwards Lord Coke) to King Charles the Firſt, who, in a meſſage to the Houſe of Commons, intreated them not to proceed in their Petition of Right, aſſuring them, that he meant nothing hoſtile to the liberties of the people, that he would preſerve them inviolate, &c. Mr. Grey read the anſwer of Sir Edward Coke, the ſubſtance of which was, that the meſſages of the King were very gracious, but they muſt look at the law of the realm. Not that they diſtruſted the King, for he ſent no meſſages but of love to them, but that with whatever ſentiments of perſonal reſpect they ſhould look to his Majeſty, they could only attend to his meſſages in a Parliamentary way. Mr. Grey concluded with ſaying, that, in order that the proceedings of this night might go down to poſterity to be judged of, he ſhould deſire that extracts of the Bill of Rights, the Mutiny Bill, and the relative Acts of Parliament, might be read; which being done, he moved, "That leave be given to bring in a Bill for indemnifying all perſons who ſhall have adviſed his Majeſty to order the landing of any foreign troops that may now be in this country, &c."

Mr. Francis ſaid, that he roſe to ſecond the motion in a very few words, but that they ſhould be the ſtrongeſt which his knowledge of the language could ſuggeſt to him: That the preſent queſtion went directly to the vitals of the conſti-

tution, and involved the preſervation or deſtruction of the liberty of the kingdom: That, notwithſtanding any thing that might have been ſaid to the contrary by ſome perſons on a former occaſion, he preſumed that, on that day, there would be no difference of opinion on this propoſition, namely, that "for the King to introduce a foreign army *againſt* the declared opinion, and in contradiction to the advice of Parliament, would be illegal." He was ready to admit, that, in ordinary caſes, and ſuppoſing the Parliament to act honeſtly, and to mean fairly to their country, the *previous conſent* of Parliament might be a ſufficient juſtification of miniſtry for bringing in a foreign force, where the neceſſity was evident, or the expediency unqueſtionable. In his opinion, all theſe conditions were neceſſary to make the act legal, *viz.* the expediency, the neceſſity, and the conſent of an *honeſt* Parliament. Otherwiſe it might happen that the conſent might be obtained, the meaſure might be ſanctioned by the vote of a corrupt Houſe of Commons, and the nation be ruined by it. Looking forward to future times, to Kings and Parliaments of a totally different character from the preſent, when, perhaps, a King with arbitrary deſires, and encouraged by a profligate miniſter, might have a venal Houſe of Commons at his command, a conjuncture might exiſt in which a King of this country, *with* the conſent of Parliament, might bring ſuch a foreign force into the kingdom, as might be ſufficient to overpower and enſlave the people. If ſuch an attempt ſhould ever be made, it would, in his opinion, conſtitute that caſe, in which reſiſtance would not only be juſtifiable, but indiſpenſably neceſſary. The conſent of a treacherous or corrupt Parliament, inſtead of ſanctifying the meaſure, ought to be a ſignal to the nation to take up arms againſt it. If they did not, they muſt ſubmit to the yoke, and pay a foreign army for enſlaving them. Events of this nature, he truſted, were far remote; but ſtill they were within the limits of poſſibility, and ought to be provided againſt. One arbitrary ſtep always led to another. At any rate, he hoped that the wiſdom of the Houſe, by its deciſion that night, would put an end to all doubt and apprehenſion on the ſubject, and ſettle the queſtion for ever.

Mr. Grenville ſaid, he was extremely happy that he was not called upon to define exactly in what ſituation the people would or would not be juſtified in reſiſting their governors; but he conceived the queſtion then before the Houſe was, whether or not the conduct of his Majeſty's miniſters, ſo far as related to the debarkation of the Heſſian troops in this country, was or was not contrary to the law and conſtitution of this kingdom? The principles upon which the preſent motion muſt be ſup-

ſupported, had been argued at length upon the night when the ſubject was laſt brought under the conſideration of the Houſe; therefore the opinions of Gentlemen muſt in ſome degree be made up upon it; and thoſe who, upon the former debate, thought the conduct of miniſters improper, muſt of courſe vote for the Bill; thoſe who then defended miniſters upon the legality, or upon the expediency, of the meaſure, muſt on their parts diſapprove of the intended Bill.

Many of thoſe Gentlemen who, upon the laſt night of diſcuſſing the ſubject, gave a ſilent vote in favour of miniſtry, had been repreſented as admitting the illegality, but contending for the expediency of the meaſure. He wiſhed to declare, that he was not one of thoſe; becauſe, if the Houſe had come to a diſtinct deciſion that night upon this ſubject, his vote would have been in favour of miniſters, as well upon the legality as upon the expediency of the meaſure; and if the previous queſtion had not been moved, he ſhould have given his diſtinct negative to the motion.

The preſent was undoubtedly one of the moſt grave and important queſtions that could poſſibly claim the attention of Parliament, and, therefore, he had felt himſelf bound to look with great minuteneſs into the law upon the ſubject; becauſe, after what he had heard, he expected to have been able to find, in ſome part of our law, a clear, diſtinct *dictum* upon the ſubject. With every poſſible attention which he could give the queſtion, he was not able to find any one declaration of law which could be ſaid fairly to apply to the preſent caſe; and he thought Gentlemen did not act with candour, when they treated every attempt to ſhew the inapplicability of the law to the preſent caſe with contempt and ridicule, becauſe the diſtinction was, in his opinion, extremely obvious.

He begged permiſſion to ſtate briefly the grounds why, in point of law, he thought the conduct of miniſters was juſtifiable. The Bill of Rights had been much relied upon by thoſe who agreed with the Mover of the propoſed Bill of Indemnity: For his part, he admired the Bill of Rights as much as any man; but the declarations in that Bill did not reach the preſent caſe; for, would any man contend that it came within theſe words, "that the King ſhall not keep a ſtanding army in this country in time of peace without the conſent of Parliament?" In time of peace! Was the preſent a time of peace? Moſt undoubtedly not; and therefore the words in that Bill could not be uſed as an authority upon the preſent occaſion.

The next point upon which Gentlemen reſted much of their argument, was the Act of Settlement. Was there in

that Houſe a ſingle Gentleman, who, upon fairly reading that Act, would venture to ſay, that he really thought its regulations were framed with a view to a caſe any thing like the preſent? He, for one, was ready to anſwer, that the Act of Settlement was by no means a certain authority againſt this prerogative. By conſidering the ſpirit of the times when the Act of Settlement was introduced, we might collect the intention of the legiſlators who paſſed it. A foreign family was recently admitted to the throne; and it was feared that, from natural predilections, foreigners would be brought into civil and military offices of truſt in this country. This was the reaſon of the prohibition which the Act of Settlement contained: But to prevent all poſſibility of doubt, he would look to the opinion of thoſe who themſelves framed the Act of Settlement. That Act was paſſed in the year 1700. In 1714, when 6000 Dutch troops were introduced into the country, the expediency of their introduction was debated, and with much warmth, by Mr. Walpole, Mr. Shippen, Mr. Pulteney, and other great men; but during the whole of the diſcuſſion, not one expreſſion fell from any one of them, calling in queſtion the legality of the introduction of the Dutch troops. If the Act of Settlement had rendered it illegal, could it be ſuppoſed, that thoſe who themſelves framed the Bill, would not have taken advantage of it, and have preſſed it as their main argument againſt their adverſaries? But nothing of that kind was aſſerted: Therefore, without much preſumption, he might continue to ſay that the Act of Settlement did not decide the queſtion.

Gentlemen had alſo relied upon the 31ſt of George II. as an authority in their favour. He felt himſelf as much at a loſs to know upon what principle they argued upon this Act, as he was with reſpect to the Act of Settlement; becauſe he could not conceive how an Act, the object of which was merely to regulate the mode of quartering and billetting ſoldiers, could be made to bear upon the preſent queſtion, which was, Whether or not it was legal, in time of war, to introduce foreign troops into the country without the previous aſſent of Parliament? If, then, there was no poſitive law which in direct terms declared ſuch a circumſtance to be illegal, he wiſhed the Houſe to conſider, whether the practice of Parliament was a more deciſive authority in favour of Gentlemen on the other ſide? A reſolution of the Houſe of Commons had been relied upon, which had been paſſed in the year 1645, and which declared, that any man, who ſhall adviſe the King to introduce foreign troops into the country without the aſſent of Parliament, is an enemy to his country, and a traitor.

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When Gentlemen called to their recollection the circumſtances which occurred at the period when this reſolution was paſſed, they would not, he thought, be inclined to pay much attention to it. But, even taking it for deciſive authority, what did it prove? It proved that the then Houſe of Commons did not conſider that to be the law of the land, becauſe, if they did, there would have been no neceſſity for paſſing ſuch a reſolution.

The precedent of 1715, he had alluded to before, in ſpeaking of the Act of Settlement: He ſhould therefore only obſerve, that upon that occaſion 6000 Dutch troops were landed in this country, in conſequence of a treaty with the States General; and the conduct of the miniſters of that day had never been called in queſtion as illegal.

The next caſe which occurred was that of 1756. Upon that occaſion the King ſent a meſſage to Parliament, not to adviſe with them, not to aſk their approbation, but to inform them that he had ſent for a body of foreign troops, who were then upon their way to the kingdom.

Then came the caſes of 1745 and 1784. To the circumſtances of the latter caſe he had heard no anſwer offered, except the general one, that it proved too much. Whether it proved too much or not, he could not tell; but of this he was ſure, that, with a variety of other caſes, it proved, that in no one inſtance, ſince the commencement of the preſent century, in which foreign troops had been introduced into the country in time of war, had a Bill of Indemnity ever been thought neceſſary.

Having thus examined into the ſtrict letter of the law, and the general current of practice, upon this point, he would, with the permiſſion of the Houſe, ſay a few words upon what he conceived to be the ſpirit of the conſtitution on the ſubject. When, in bad and tyrannical times, it was aſſerted, that the King's prerogative was paramount to all law, and wholly independent of Parliament, then, moſt undoubtedly, it was the duty of Parliament to control and diminiſh as much as poſſible a prerogative ſo inimical to the liberty of the people; but ſince then, other maxims of a more liberal nature had been introduced, and the prerogative of the King was made reconcileable to the liberty of the ſubject. There was not one of the prerogatives of the Crown which was not under the control of Parliament, by means of the reſponſibility of miniſters; and therefore it was, that he did not feel that extreme jealouſy of the power of the Crown which ſome Gentlemen profeſſed.

The King had aſſuredly the power of diſſolving Parliament; of making peace and war; but this prerogative, as well as every other one that the King poſſeſſed, was ſubject to the examination of Parliament. If miniſters betrayed their country, they were liable to be puniſhed. What prerogative was more important than that of convening and diſſolving the Houſe of Commons? Yet it could not be exerciſed improperly without its being competent to the Houſe to cenſure and puniſh his Majeſty's adviſers. He would wiſh to aſk the Houſe, whether they thought it more dangerous to conſider this act of landing the troops as an exertion of the prerogative for which the miniſters were anſwerable, or to conſider it as illegal, for which it would be neceſſary to paſs an Act of Indemnity? He thought the latter the moſt dangerous and the leaſt efficacious meaſure, and of courſe ſhould prefer the former. He would wiſh to aſk Gentlemen, whether, if an invaſion from the French was apprehended, and the regular troops of this country were employed abroad, and ſuppoſe at the ſame time there happened to be 15,000 of our allies at Oſtend, would or would not the miniſter be juſtified in ſending for them? Moſt undoubtedly he would. Nay, he would go farther, and ſay, that if the miniſter did not ſend for them, he would deſerve to be impeached. The opinion of the Hon. Gentleman was, he thought, contrary to the letter of the law, the practice of Parliament, and the ſpirit of the conſtitution. If the Hon. Gentleman's motion was agreed to, and the caſe to which he had juſt alluded ſhould happen, would the Hon. Gentleman act as manager in an impeachment of the miniſter for not doing that which he had declared diſtinctly to be illegal? Upon theſe grounds he ſhould give his moſt decided negative to the motion.

Mr. Serjeant Adair ſaid, that from the ſituation in which he ſtood, and from the doctrines he had advanced on a former night, he felt himſelf particularly called upon to declare his ſentiments. He was not under the ſmalleſt embarraſſment, from the vote he had before given, from ſaying what ſide he ſhould eſpouſe. Upon the preſent queſtion he felt no difficulty whatever in deciding: The law upon this ſubject was too clear to admit of any doubts. Conſidering this as a queſtion which in its nature involved one of the moſt important branches of conſtitutional liberty, he ſhould feel himſelf unworthy the character of a Member of Parliament, and a repreſentative of the people, he ſhould think himſelf a diſgrace to the profeſſion to which he had the honour to belong, if he was not prepared to ſtand forth in defence of the conſtitution of the country. When this ſubject was diſcuſſed upon a former

mer night, he had declared to the Houſe, that if the real queſtion was brought in iſſue, he ſhould vote for the motion of the Hon. Gentleman (Mr. Grey); but, not thinking it neceſſary to come to a deciſion upon the ſubject, on that occaſion he had moved the previous queſtion; at the ſame time determining to vote for the motion, if he ſhould be compelled to give a vote one way or other upon it: But, upon the preſent occaſion, he was obliged to give a diſtinct opinion; and he would therefore requeſt the indulgence of the Houſe while he ſtated, as conciſely as poſſible, the grounds upon which that opinion was formed.

That, by the common law of the kingdom, no ſuch authority was veſted in the Crown, he truſted he ſhould be able to convince the Houſe; that therefore, to contend that ſuch prerogative exiſted, and deduce an argument in defence and ſupport of that poſition, from the ſilence of the Bill of Rights on the ſubject, was an argument nugatory and futile; and alſo, that the introduction of foreign troops into the kingdom, was expreſſed in the Act of Settlement to be illegal. If it ſhould once be determined that the King had this prerogative, of introducing whatever number of foreign troops he pleaſed, independent of Parliament, all the checks which the conſtitution had ſo wiſely and ſo cautiouſly impoſed upon his other prerogatives would be but of little avail. The common law of this country had, in a very diſtinct manner, provided, that it formed no part of the prerogative of the Crown to employ either native or foreign troops without the conſent of Parliament; and that common law had been recogniſed and enforced by ſeveral ſtatutes. At no period of the Engliſh hiſtory have the monarchs of England had the prerogative of calling out even the native troops of this country without the conſent of Parliament.

During the times of the feudal tenures in this country, the military force, if ſuch it could with propriety be called, conſiſted entirely of the tenants of the ſoil, who were bound by their tenures to defend their lords; which force of the country was not calculated for the proſecution of foreign wars, but for internal defence: This kind of force exiſted, in ſome degree, amongſt our Saxon anceſtors; and the monarchs of thoſe days, he contended, did not levy troops merely as kings, but as the territorial lords of the country, who, in caſes of invaſion, or other public neceſſity, called forth their feudal tenants to defend the country, as they were bound to do by the nature of the tenures by which they held their lands. That at common law there exiſted no right in the Crown to embody any armed force within the kingdom, was clear from the firſt eſtabliſhment

bliſhment of the militia, in the reign of Charles II. In the reign of that monarch the greater part of the feudal tenures were aboliſhed, and the ſyſtem of national defence, which was founded upon it, of courſe fell to the ground; Parliament therefore were obliged to ſubſtitute another plan in its ſtead: With this view they eſtabliſhed a regular national militia, which was the origin of that excellent conſtitutional force for internal defence of the kingdom exiſting at the preſent day; and they did it becauſe they knew that the King, by his prerogative, had not the power of providing any means of internal defence. From that time to the preſent, a ſyſtem had been gaining ground of having a regular body of forces in the nature of a ſtanding army, which the altered ſituation of this country, and the general politics of Europe, had in ſome degree rendered neceſſary. But that army muſt be annually voted by Parliament, and a Mutiny Bill is paſſed every year for its regulation. This was the law of England reſpecting the prerogative of the Crown relative to the forces; a point in which Parliament have always been laudably anxious; and he challenged any Gentleman in the Houſe to ſhew him the time when the prerogative of the Crown was different from what he ſtated it to be. The jealouſy of Parliament, on this prerogative of the Crown to levy troops, commenced at a very early period of our hiſtory, and evinced itſelf by ſeveral acts and reſolutions of Parliament. So early as Edward III. an act of Parliament was paſſed, by which it was enacted, that no perſon ſhould be called out of the ſhire in which he lived, except in caſes of inſurrection or invaſion; and he could not conceive that our anceſtors, and he would leave it to the plain reaſon of any Gentleman in that Houſe, would be guilty of ſo great a ſoleciſm in politics, as to prevent the drawing forth the forces of the country, except in time of great and extraordinary danger, but would leave in the power of the Crown the right of bringing into the kingdom an indefinite number of foreign troops, when and at what time it might to the Crown ſeem proper. This by no means appeared to him to be conſiſtent either with prudence or diſcretion.

The 25th of the ſame King goes to a reſtriction of even thi military force; and to confine it merely to ſuch as were bound by their tenure and poſſeſſions to defend the country; t enacts, "That none ſhall be conſidered bound to find arms, but ſuch as are bound ſo to do by the tenures of their lands." If then our anceſtors were ſo jealous of truſting kings with this power over native troops, could it be ſuppoſed that they were ſo abſurd as to entertain no apprehenſions of allowing the King an unlimited power to introduce, by his ſole authority, thouſand s,

thouſands, or tens of thouſands, of foreigners into the kingdom, to be employed in whatever manner he ſhould think proper? If they could not truſt native forces in the kingdom, who were attached to us by the ties of friendſhip and affinity, who were born on the ſame ſoil, who profeſſed the ſame religion, who had imbibed the ſame principles, how could they truſt foreigners, who could not poſſibly feel any attachment for us, but would be ready to act the part they were ordered, whether for or againſt the intereſts of the kingdom and the King's ſubjects? Our anceſtors were not guilty of this abſurdity: With the moſt ſcrupulous anxiety they provided againſt danger either from the one or the other; and he hoped that the watchfulneſs and jealouſy which had always marked the Houſe, would not now for the firſt time be departed from. Reſpecting the militia, which is compoſed in a great meaſure of perſons poſſeſſing ſome ſtake in the country, in which the officers are gentlemen of landed property, and of courſe intereſted in the welfare of the kingdom, and who therefore could not be ſuppoſed willing to do any thing contrary to its intereſts, even with the control of theſe troops the King is not by law wholly inveſted; for by an act of the ſecond of his preſent Majeſty, which was an act for uniting the ſeveral militia laws, it would clearly appear what was the opinion of the Legiſlature upon the prerogative of the Crown with regard to the collecting a military force in the kingdom, even of the conſtitutional force of the country. By that act it is expreſsly enacted, that the militia ſhould not be called out except in the caſe of invaſion, or inſurrection, or the apprehenſion of ſome great and imminent danger: And even in theſe caſes it was not lawful to call out the militia, if Parliament were ſitting at the time, without firſt acquainting them with ſuch intention, and the grounds upon which the meaſure had been adopted. The clauſe which next followed, clearly demonſtrated in his mind, and muſt in the mind of every thinking man, that even to this calling out the militia, if the immediate conſent of Parliament could not be obtained, it was to be had as ſpeedily as it could poſſibly be obtained; for in caſe the Parliament ſhould not be ſitting at the time when the militia ſhould be ſo called out, it was further enacted, that the Parliament ſhould be ſummoned within fourteen days of ſuch calling out of the militia, and the meaſures which had been adopted laid before them; though in ordinary caſes the Parliament could not be ſummoned to meet within leſs than forty days from the iſſuing of the ſummons; a regulation of law for which not only the neceſſity, but the ſpeedy neceſſity, of a Parliamentary ſanction for this deviation from the eſtabliſhed conſtitution of

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the country was manifeſtly apparent; and ſurely if the King was veſted with an undoubted prerogative to bring into the country what number he might be adviſed to bring of Heſſians, Auſtrians, Hungarians, or other foreign troops, the jealous caution of this act of the Legiſlature would be altogether uſeleſs and inefficient. In the Bill of Rights, he obſerved, we were not to look for any poſitive prohibition; nor were we to ſay, becauſe there exiſted no prohibition of the prerogative of the Crown, in this inſtance, in the Bill of Rights, that therefore it proved the exiſtence of ſuch a prerogative. As well might it be ſaid that ſeveral of the moſt valuable privileges of Britiſh ſubjects, which they held under Magna Charta and the Habeas Corpus Act, did not exiſt, or were taken away, becauſe they had not been recited in the Bill of Rights.

An Hon. Gentleman (Mr. Grenville) had complained that he had ſearched in vain for any poſitive law which denied ſuch prerogative to be veſted in the Crown, or had declared the exerciſe of it to be illegal; he could direct the Hon. Gentleman to an act of Parliament in which that doctrine was to be found; he meant the Act of Settlement. He thought it proper to ſtate to the Houſe the objects of the Bill of Rights, and the circumſtances under which it had been brought forward: Its principal deſign was to expreſs the public ſenſe of the ſeveral grievances which had exiſted under James the Second, and to take effectual meaſures for preventing the repetition of them, and the ſubſequent invaſion of what they eſteemed their undoubted rights and privileges, by the Crown. While there was a hope of iſſue to ſucceed to the Crown of Mary and Anne, there was no great apprehenſion of the introduction of foreign military forces into the kingdom; but when, upon failure of iſſue in them, and all hopes of an heir of that family in a ſituation to ſucceed to the Crown of theſe kingdoms, it had been found neceſſary to ſettle the deſcent upon a foreign family, with foreign connections and poſſeſſions, it was thought adviſeable to guard in the Act of Settlement againſt the introduction of foreign troops, which is effectually done in that clauſe of the bill, which ſays, that no foreigner or perſon born out of the kingdoms of Great Britain and Ireland, ſhall hold or enjoy any place or truſt, civil or military, within this kingdom. Mr. Adair contended, that every ſoldier brought into the country, to act therein, is certainly in a ſituation of military truſt, not to ſpeak of officers who exerciſe official command, and who conſequently muſt be in a high military ſituation. The uſual clauſe in every Naturalization Bill, which paſſed through that Houſe, he obſerved, was another ſtrong corroborating circumſtance to prove, that no foreign military force

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can be legally employed within the kingdom; for it expreſsly provides that the perſon ſo naturalized, ſhall not be capable of holding any place of civil or military truſt; from which may be fairly deduced, that, without the concurrence of Parliament, no foreign military force can exiſt in this country ſubject to any law or regulation. Would Gentlemen contend that the foreign officers and troops now in this country, were not in a ſituation of truſt either civil or military? Or would it be contended, becauſe the Act of Settlement ſays that no foreigner ſhall be employed, &c. that it follows from thence that 6 or 8000 may be landed without impropriety? That was rather too abſurd a propoſition to be attempted to be ſupported. He defied the utmoſt eloquence of any Gentleman in that Houſe to fritter away the ſenſe of words ſo clear and diſtinct as thoſe were.

He truſted he had ſhewn firſt, that, by the common law of the land, no ſuch prerogative of the Crown exiſted; that there ever has been a jealouſy in Parliament of the privilege of the King to collect any military force, without the expreſs authority of the collective branches of the Legiſlature; and that there was a poſitive exiſting law againſt the introduction of a foreign force in war or in peace into the kingdom, without the authority of Parliament.

The Hon. Gentleman (Mr. Grenville) had ſeemed to think but lightly of this prerogative and its conſequences, while, on the other hand, he ſeemed to conſider other prerogatives of the Crown to be of a more ſerious nature, and that they ſhould at all times be ſubject to Parliamentary diſcuſſion and watchful jealouſy. He confeſſed himſelf no enemy to the ordinary prerogatives of the Crown, ſuch as were known, defined, and legal; nor did he apprehend any great danger of an improper or unconſtitutional uſe of them: He thought that thoſe prerogatives were neceſſary to the well-being of the conſtitution, and for the benefit and intereſt of the people, for whoſe advantage and proſperity they had been veſted in the hands of the ſupreme magiſtrate, and were as neceſſary to be preſerved and maintained as any other part of the conſtitution. But the prerogative which ſeemed to him dangerous, and which the Hon. Gentleman had thought of ſuch trifling conſequence, was that prerogative, which, if it at all exiſted, was unknown, undefined, and unaſcertained. He wiſhed Gentlemen to conſider well what would be the conſequences of the vote they might give that night. If they voted againſt the introduction of the Bill, they eſtabliſhed in the Crown a prerogative dangerous in its nature, and which, though there did not exiſt any probability at the preſent day of ſuch an uſe being made of it,

might be converted into an effectual engine for the ſubverſion of the liberties of the country. The King might, at any time that he pleaſed, land any number of foreign troops in this country, without aſſigning any cauſe, or conſulting Parliament, and employ them in any manner that he thought fit. At preſent they might, in caſe of an abuſe of this power of landing foreign troops, call upon the miniſters to aſſign the reaſons for their conduct; but if it were once eſtabliſhed as the undoubted prerogative of the Crown, to uſe a phraſe appropriate to his own profeſſion, the *onus probandi* would be thrown upon the Houſe, to ſhew, by ſome overt act, that the prerogative of the Crown was uſed for dangerous purpoſes; and perhaps this proof might come too late, after an overt act of landing thirty or forty thouſand Auſtrians, Hungarians, or Heſſians; for the number was unlimited.

With regard to precedents, he had one general opinion, that no ſucceſſion of illegal acts could make that right which was in itſelf unjuſt; but in the precedents that had been adduced, he thought they did not all bear out the obſervations which had been made upon them. It had been ſaid that a body of ſix thouſand Dutch troops had been brought for the defence of the country in 1714, at the time thoſe very men who framed the Act of Settlement were living; that they never complained of the violation of this act, or any extraordinary ſtretch of the prerogative of the Crown, and they were moſt likely to know what was the intent and ſpirit of a law, which they had themſelves been principally inſtrumental in framing. The Hon. Gentleman ſhould however recollect, that this was at a time when there was an open rebellion in the kingdom, for the expreſs purpoſe of ſetting aſide that ſucceſſion which they were ſo anxious to eſtabliſh by the Act of Settlement, and it was not therefore very likely that they would condemn thoſe meaſures which were adopted to maintain the Royal Family on the throne, and which they might very probably have themſelves ſuggeſted. And the other, which had been addueed in 1744, was equally unfortunate, being alſo a time of open rebellion, when the Scots were in arms for the re-eſtabliſhment of the Stuarts on the throne. All the other precedents which had been adduced, he did not think went by any means to eſtabliſh the doctrines which had been laid down. He owned that he did not expect to have heard the preſent meaſure defended on the ground of precedent, and the undiſputed prerogative of the Crown. But when he heard a Right Hon. Gentleman, whoſe high ſituation, and ſplendid talents, gave weight to whatever might fall from him, in a manner ſo unequivocal expreſs his ſentiments on that ſubject, he thought it his duty

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to ſtate to the Houſe what his opinion was. He thought that the meaſure might have been well defended upon the grounds of neceſſity and humanity; for upon thoſe grounds, he thought it not only juſtifiable, but praiſe-worthy; had it been ſtated, as he underſtood and believed to be the real fact, that thoſe troops had been brought from their own country, for the purpoſe of a foreign expedition; that, from various and unexpected delays and ſickneſs, they were detained on our coaſts, and that they had been permitted to land, as humanity muſt have induced us to have permitted ſtrangers to have landed, ſuch a defence might have been juſtly ſet up; and had it been ſtated, he believed that he ſhould have voted as he had voted upon the former night. He ſhould have conſidered that there was leſs cauſe for jealouſy in the preſent caſe, had not the aſſertion, that ſuch a prerogative exiſted, come from the quarter that it did; a quarter that certainly gave occaſion for a more than common jealouſy, when the queſtion was between the prerogative of the Crown and the law of the land; and when there exiſted no doubt in any other place upon the queſtion but in that Houſe, he certainly felt himſelf bound, as he thought every Member of that Houſe was, to oppoſe it, and to vote for the Bill of Indemnity propoſed. The preſent, he ſaid, he had conſidered as a time of great and alarming danger, inſomuch as to induce him to give his ſupport to men whom it had hitherto been his principles to oppoſe; but though he gave them his ſupport for the war, he could not think of ſupporting them in every innovation which they might attempt on the conſtitution. He exhorted thoſe Gentlemen who had acted upon the ſame principles as he had done, to be cautious how, in their miſtaken zeal, they might inflict an incurable wound on the conſtitution of their country; it behoved them to conſider well the ſituation in which they ſtood, and to avoid any act which might tend to diſgrace it. He alſo warned the miniſter not to truſt ſo far to political converts as to ſuppoſe, that thoſe Noble and Honourable Perſons, who, from a conſcientious ſenſe of duty, had joined him on ſome late occaſions, would give him their ſupport a moment longer than they ſaw him acting upon fair, ſound, and conſtitutional principles.

Mr. Anſtruther began his ſpeech with remarking, that the conduct and comments of the Learned Serjeant who had juſt ſat down, were extremely ſingular and ſomewhat extraordinary. On a former occaſion, when the queſtion had been ſubmitted to the conſideration of the Houſe (he meant the ſimple queſtion with reſpect to the legality or illegality of the meaſure), the Learned Gentleman had thought proper to vote with his Right Hon. Friend (the Chancellor of the Exche-

quer); but that night, when a diſtinct and ſeparate queſtion was brought forward for diſcuſſion, and upon which that ſame Hon. Gentleman had delivered his opinion (namely, that conſidering the queſtion upon the ground and under the peculiar circumſtances under which the troops had been landed in this kingdom, it did not appear to him to be a violation of the principles of the conſtitution, or a direct and poſitive breach of the law), he thought it the moſt proper and opportune ſeaſon to differ with his Right Hon. Friend. The firſt propoſition that had been advanced by the Learned Serjeant, Mr. Anſtruther ſaid, was of a very extenſive nature indeed: It was nothing ſhort of this, that it was by no means the prerogative of the Crown to raiſe, to muſter, to diſcipline, to govern any troops, or to introduce any foreign force within the kingdom, either in time of peace or war. Did that Hon. Gentleman recollect, that the Crown was charged with the protection of the kingdom; and that, in time of war more eſpecially, if his Majeſty ſaw any danger, he was empowered by his royal prerogative to call out his forces? Was it not the common and invariable practice for his Majeſty, in his ſpeech to both Houſes, to ſtate, that he deemed it neceſſary to augment his army, and to increaſe his navy? Suppoſing, for inſtance, that the Houſe had voted 24,000 ſeamen in time of peace, and that, during the receſs of Parliament, a war broke out, and that the Crown, for the immediate ſafety of the kingdom, had increaſed that eſtabliſhment to 40,000 men; would any Member in that Houſe, would any man out of doors, would any man of common ſenſe, find himſelf juſtified in ſaying, that ſuch a circumſtance was a direct and open violation of the ſacred principles of the conſtitution, or a breach of any poſitive law? It was alſo worthy of remark, that, in point of precedent, it was clearly and unequivocally admitted, that the King, during the Saxon and feudal ſyſtem, poſſeſſed the power of calling out the forces of the kingdom. In regard to the fact of the King's being poſſeſſed of the power of calling out the forces of the kingdom in time of war, the reign of Henry VII. the reign of Henry VIII. and the reign of Philip and Mary, furniſhed ample proof, and afforded abundant precedents.

The Learned Serjeant (Adair) had ſtated in ſtrong terms, and in emphatic language, that the King did not poſſeſs the power of raiſing ſoldiers within the kingdom in time of war, without the previous conſent of Parliament firſt had and obtained. To find a complete and ample refutation of this poſition, the Houſe had only to recur to the preamble of an act that had been paſſed in the reign of Philip and Mary.

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[Mr. Anſtruther read a part of the preamble of the act, wherein it was ſet forth in the ſtrongeſt poſſible language, that the King was thereby to be enabled to raiſe, to muſter, to diſcipline troops, and to appoint officers.]

But this, he ſaid, was not the only act of the kind that could be reſorted to; there were ſeveral ſuch acts. By the Petition of Right, and by an act that paſſed in the reign of Charles the Firſt, it was evident that the Crown was poſſeſſed of the power of raiſing ſoldiers in time of war. He was ready to confeſs, that he could not diſcover by what mode of reaſoning the Militia Bill could by any poſſibility be brought to bear upon the preſent queſtion. A ſtrong and compulſory reaſon was to be given for raiſing, for embodying the militia: That was a queſtion for the conſideration of Parliament; but what had that to do with the ancient prerogative of the King? He would not allow that the argument reſpecting the militia applied to the preſent queſtion, nor that it had any thing to do with prerogative. If, under the circumſtances of an apprehenſion of an inſurrection, or of a foreign invaſion, the King, by his proclamation, could embody the militia, and conſequently could aſſemble the Parliament in fourteen days, and if the difference was, that when ſuch circumſtances did not exiſt, the King could not aſſemble the Parliament in leſs than forty days, yet what had that to do with the queſtion then before the Houſe? Was it, however, true that Charles I. had not called out any army in time of war? It was a little ſingular that the meaſure was not noticed either at the Reſtoration or at the Revolution. The next thing that had been alluded to, was the Act of Settlement. He was inclined to think, that the Act of Settlement had as little to do with the preſent queſtion as the Bill of Rights. The Learned Gentleman (Adair) had ſtated the law to be clear on this point, that the King was not poſſeſſed of the power of having ſoldiers in this country without the conſent of Parliament. It was ſingular that no declaratory act had been paſſed; and likewiſe that the circumſtance had not been noticed in the Act of Settlement. That act ſet forth merely, that no place or penſion, that no office, either of civil or military truſt, was to be conferred upon a foreigner. But what reference had that to the preſent queſtion? The object therefore of the clauſe in that bill, was to prevent foreigners from monopolizing under George I, places of great truſt and emolument, as they had notoriouſly done during the reign of King William.

The next point that had been dwelt upon by the Honourable and Learned Gentleman, was the occurrence in 1715 and 1745. It was admitted that, during the rebellion, which

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was pregnant with danger and difficulty, the circumſtances that occurred were thought to amount to a juſtification of ſuch a meaſure. He ſhould be glad to know why a Bill of Indemnity had not been paſſed after the period of the rebellion, for the meaſure he had juſt alluded to. It was very ſingular, that after the period of the rebellion, d Bill of Indemnity had actually paſſed; but in that Bill of Inaemnity not the leaſt notice was taken of the circumſtance of bringing foreign troops into the kingdom. What was to be collected, what was to be inferred from this, but that that meaſure was not illegal? How was the preſent queſtion to be decided? If the illegality of the act was not pointed out by the Bill of Rights, by the Act of Settlement, or even by the opinion of Parliament, at any one period explicitly avowed and declared, by what rule was that Houſe to determine? or how was that Houſe conſiſtently to paſs a Bill of Indemnity for an act that could not be found conſidered as an illegal act in any one of the Statute or Law Books? A great deal had been ſaid about the expreſſion, the *previous conſent* of Parliament. It could not be ſuppoſed that the *previous conſent* of Parliament *legalized* an act; but then the *previous conſent* was ſomething: He was at a loſs to comprehend fully what was meant by *previous* conſent of Parliament, unleſs it was an act of Parliament; and he ſhould be glad to hear any Gentleman aſſert that ſuch previous approbation would render any thing legal which was before illegal. He ſhould be glad, ſpeaking profeſſionally, to put a caſe for the conſideration of the Learned Serjeant (Adair). Suppoſing that in the preſent inſtance an action of treſpaſs was to be brought, how could the Learned Serjeant, by way of juſtification, put upon the record, that the previous conſent of Parliament had been obtained? If all that went for nothing, then the circumſtances that occurred in 1715 and 1745, and the two caſes that had been cited, muſt be directly in point. The Honourable Gentleman (Mr. Grey) who had brought forward the queſtion that night, had concluded with reading a paſſage from Lord Coke, that reprobated the circumſtance of placing implicit confidence in meſſages. But were that to hold, the objection would go to all communications from his Majeſty, where a vote of thanks ſufficiently proved the aſſent of Parliament to a meaſure that had been adopted under certain circumſtances, and where an act of Parliament was by no means neceſſary, and perhaps, in ſome inſtances, might not even be attended with good conſequences. Would any Gentleman aſſert, that the King had at no one period raiſed ſoldiers in this kingdom? From the year 1698 to the year 1701 there was a ſtanding army kept up in this

country, and the Mutiny Bill was ſuſpended. From that period down to the preſent time, no Bill of Indemnity, under circumſtances like the preſent, had been paſſed; therefore it could not be preſumed that this was a fit caſe upon which a Bill of Indemnity ought to paſs. If it had been made out that there were precedents in ſupport of the preſent motion, if it had been ſhewn that Parliament had paſſed a Bill of Indemnity in caſes like that upon which the Houſe was then deliberating, then indeed there would be a ſtrong ground for the Houſe to go upon. Acts of Indemnity were only neceſſary where ſubordinate perſons had incurred penalties in obeying the orders of their ſuperiors, and which penalties were recoverable in the ordinary courts; but they were never requiſite in caſes like the preſent, which were only cognizable by the Parliament itſelf. It appeared to his perfect conviction, that the caſes that had been cited, went moſt fully and completely to decide the queſtion. He would ſuppoſe this caſe, that a high character in the country had iſſued orders, and that officers had conſequently acted upon thoſe orders, and that it turned out that they acted illegally, then there would be a neceſſity for Parliament to paſs a bill to indemnify thoſe officers that had acted ſo, againſt whom actions might be brought. If no illegality were made out, a Bill of Indemnity would be the moſt improper of all poſſible meaſures; becauſe, in the firſt place, the circumſtances of ſuch an act then paſſing, would give riſe to the demand of a Bill of Indemnity in improper caſes; and, in the next place, there was a full and complete juſtification upon the face of the meaſure itſelf. For theſe reaſons, Mr. Anſtruther ſaid, he ſhould give his decided negative to the motion.

Mr. C. Yorke confeſſed, that he was anxious to deliver his ſentiments upon the queſtion before the Houſe that night. If it had been argued upon the expediency of the meaſure, that he might have agreed to; but when it was boldly aſſerted, and that from a very reſpectable perſon in that Houſe, that the King, by his prerogative, could land in this country any number of foreign troops without the conſent of Parliament, he thought it his duty to oppoſe that doctrine, and he conſidered it full time for the Houſe to deny it ſolemnly, either by Bill of Indemnity, or ſome ſerious reſolution upon the ſubject. He was ready to declare in the moſt explicit terms, that he perfectly coincided with the Learned Gentleman (Mr. Adair), whoſe opinion upon the ſubject had been ſo ably ſtated, and for whoſe judgment he acknowledged the greateſt deference. Conſidering the turn the debate had taken, and conſidering the manner in which the queſtion had been argued, it became a very grave and ſerious queſtion indeed for that Houſe to come

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to a deciſion upon. He knew of no ſuch prerogative as that contended for; it was not to be found in any book or in any law, that he had ever heard of. Before the Revolution, it never had happened that foreign troops were brought into the kingdom. In the reign of King John, and after a peace had taken place between the King and the Barons, that great conſtitutional charter Magna Charta was granted. The 26th clauſe of that charter ordered the removal of all foreign military troops in the kingdom, as ſoon as the diſputes between the King and the Barons were terminated. This was by no means deciſive upon the queſtion; but he only mentioned it, in order to ſhew what a degree of jealouſy exiſted even at that period, and to prove that no ſuch prerogative was then veſted in the Crown.

The Bill of Rights did not apply to the queſtion for diſcuſſion that night, for that Bill only declared the particular rights that had been then attacked. In regard to the Act of Settlement, he thought it did apply; inaſmuch as it ſtated, that no place of civil or military truſt could be conferred upon any foreigner. He conceived that foreign troops being within the kingdom, was a circumſtance to which that Act cloſely applied. As to times of war, which had always been made a pretext, he would aſk whether, if Charles II. during the Dutch wars that prevailed in his reign, had underſtood that ſuch a prerogative belonged to him, he might not have put Portſmouth and Plymouth in poſſeſſion of France, with whom we were then allied (and it was well known that that Monarch bore no very particular averſion to the French nation), under the pretence of a Dutch war? At the time that King William introduced the Dutch troops into this country, he thought we were obliged to him. The King ſent a meſſage to Parliament in order that they might be ſuffered to remain here, but to that meaſure Parliament refuſed their aſſent. From ſimilar cauſes he alſo thought the ſame of the caſes of 1715 and 1745. On theſe occaſions Parliament had not only voted addreſſes thanking the King for his communications, but had actually expreſſed their approbation of the meaſure, and given it their ſanction.

He agreed in what had been ſaid reſpecting calling out the militia, which could not be done by the King's prerogative without the conſent of Parliament, except in caſes of actual rebellion or threatened invaſion, and upon all occaſions while Parliament is ſitting. That there was no poſſible danger to be apprehended to the conſtitution in the exerciſe of any prerogative by the preſent illuſtrious family on the throne, no man was more willing to admit than he was; but, notwithſtanding,

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it was neceſſary for that Houſe at all times, and perhaps more in the reign of a mild Prince than at any other time, to look a little to prerogative. Mr. Yorke ſaid, he was clearly of opinion, that no ſuch prerogative as that of landing foreign troops in this kingdom, without the conſent of Parliament, did exiſt in the Crown; he therefore concluded with ſaying, that he ſhould either vote for the Bill of Indemnity, or ſome ſtrong reſolution of the Houſe, expreſſive of their denial of the exiſtence of ſuch prerogative.

Mr. Campbell obſerved, that miniſters had in the preſent inſtance purſued moſt ſtrictly the conduct of their predeceſſors. It ſhould be recollected, that that Houſe had the public purſe under its control, and that no troops could be kept up and maintained without the conſent of the Commons of Great Britain in Parliament aſſembled. What was done, he was perfectly aſſured, had been done for the public ſafety, for the ſake of humanity, and for the preſervation of the conſtitution; and the Houſe had confeſſed the expediency and neceſſity of what had been done by his Majeſty's miniſters for the public ſafety. He would therefore vote againſt the queſtion.

Mr. Sheridan ſaid, he rather apprehended, that his Learned Friend who had examined and argued the queſtion with ſo much ability and conſtitutional knowledge, was rather too ſanguine in his expectations, as he had ſtated them in one part of his ſpeech. His Learned Friend had cautioned the Houſe not to imagine, that perſons of high rank and character, who thought themſelves bound to give a conſcientious and independent ſupport to the war, had ſo far forgotten their former principles as to follow the miniſter in all the new and extraordinary doctrines that he might think proper to adopt. His Learned Friend's arguments, it was true, were not to be refuted, and, coming from ſuch high conſtitutional authority, as they ought to do, would doubtleſs make their due impreſſion. But he had appealed to thoſe Gentlemen, whoſe conſiſtency he could not doubt, in giving a blind confidence to his Majeſty's miniſters. There were a certain deſcription of men who were not to be convinced; men who were prepared to ſupport any meaſures; and who, if they could not elucidate, always employed their talents in endeavouring to envelope in myſtery and darkneſs what might with much greater eaſe be clearly exhibited. A Learned Gentleman who roſe immediately after (Mr. Anſtruther) had taken care to ſhew that of thoſe who had for years diſtruſted the preſent adminiſtration, he at leaſt was not of the opinion ſo candidly alluded to by his Learned Friend. When he recollected by whom the conduct of the Scots Courts, and the moſt unconſtitutional

ſtitutional doctrine on which the Houſe was now debating, had been defended, much as he wiſhed it, he knew not how to believe what his Learned Friend had ſaid, and of which he himſelf was an illuſtrious example. The Learned Gentleman (Mr. Anſtruther) who took the oppoſite courſe, had choſen a ſtrange mode of arguing; he had puſhed forward in a heedleſs manner, and endeavoured to repreſent, in his own way, the arguments of his Hon. and Learned Friend, who, whether he was right in his warning to the Houſe or not, was certainly not ſo over-ſanguine as to let his zeal get the better of his abilities. Inſtead of replying to what was actually ſaid, that Learned Gentleman (Mr. Anſtruther) wiſhed he could hear Gentlemen maintain propoſitions which nobody ever thought of maintaining; and then, proud of his great acuteneſs in detecting error, ſhewed how ſuch propoſitions could not be defended. To ſome minds, truth was deſirable, on account of its native beauty; but the Learned Gentleman, with a taſte ſomewhat different, wiſhed only to have falſehood preſented to him. This, he feared, aroſe from the Learned Gentleman's not being ſo able to anſwer the facts that were adduced in argument, as the abſurdities which he himſelf could imagine. There, however, was one part, and he was ſorry that it was the only part of the Hon. Member's ſpeech, which applied to the purpoſe; he meant the precedents in relation to the conduct of Bills of Indemnity, and of what benefit they were.

Mr. Sheridan contended, that as it was a breach of the law to adviſe the King to diſſolve the Parliament, ſo was it an aggravation of the conduct of thoſe who adviſed him to land the foreign troops in this kingdom without the approbation of the Commons, inaſmuch as the one was a trifling circumſtance compared to the magnitude and danger of the other. He admitted that in caſes like the preſent, the conſent of Parliament did amount to a conſtitutional indemnity; but if the bringing of foreign troops into the kingdom was contrary to law, however juſtifiable in point of expediency, he contended that miniſters and all their agents ſtood as much in need of an act of indemnity as for ſhutting the ports againſt the exportation of corn, when by law they ought to be open. It was the clear and indiſputable principle of the conſtitution, that every one of the prerogatives of the Crown, and every branch of the executive power, being held for the good of the people, the abuſe of every one of them was puniſhable; but if ſuch a prerogative exiſted as that of landing foreign troops without conſent of Parliament it was idle to talk of puniſhing the abuſe of it, for the firſt abuſe muſt be the death-blow of the conſti-

conſtitution. To look into books for the illegality of ſuch a claim was, he obſerved, mere waſte of time; common ſenſe was ſufficient to ſhew that it could not exiſt. If it did exiſt, where was to be found the law to regulate the exerciſe of it? for as ſure as any prerogative exiſted by law, it was ſubject to legal reſtriction. If he was told that there was no proviſion made by law againſt it, he would anſwer that, like the crime of parricide in the contemplation of the Athenian lawgiver, it had never been thought of by our anceſtors as poſſible. The Act of Settlement was not, as it had been repreſented by Gentlemen on the other ſide, a mere contrivance to ſecure to thoſe who paſſed it a monopoly of places and employments, by excluding foreigners from all participation. The Gentlemen who argued ſo had lately received a conſiderable acceſſion of foreign aid; he knew not whether they had found their places and employments greatly broke in upon by their new auxiliaries; he defied them, however, to prove that the landing of foreign troops was legal before the Act of Settlement; and ſince that period, would they pretend to ſay, that troops ſo landed were ſubject to law? He was againſt narrowing the queſtion, according to the ſuggeſtions of his Learned Friend, by comparing it with common law; but to take it upon ground, as extenſive as he thought the danger ariſing from it would be. From the preſent ſtate of the troops in queſtion, would any man ſay that they were under military law? Would any man maintain, that if any of them ſhould deſert, he could be puniſhed by the Mutiny Bill? Were he a magiſtrate of the Iſle of Wight, or of the county of Hampſhire, deſtitute of the irreſiſtible attachment to government and to miniſters, that ſome magiſtrates were apt to manifeſt, he ſhould not heſitate to declare, that he ſhould think himſelf bound to diſband them, as a ſet of tumultuous and diſorderly men. The danger was evident, and he could quote an inſtance which would inconteſtably prove its imminence. A very eminent man, once an ardent ſupporter of the people's cauſe, but who, like ſome others, diſgraced himſelf by the moſt ſcandalous and abandoned apoſtacy, and become as ardent a ſupporter of prerogative (the Earl of Strafford), when he commanded an army againſt Scotland, was told that the ſoldiers under his command at York were aſſembled contrary to law, and conſequently were not legally bound to obey him, returned for anſwer, "That it might be, but he would hang any man who ſhould dare to tell them ſo." When he recollected that memorable ſpeech, he was aware of the arguments to which Gentlemen on the oppoſite ſide of the Houſe would have recourſe, were he to enlarge upon the ſituation in which

he conſidered the Heſſians, who were the ſubject of that night's debate.

It had been aſked by an Hon. Member (Mr. T. Grenville), whether, if our troops were employed on the Rhine, the troops of our allies at Oſtend, and an invaſion was threatened, he would not impeach the miniſter who ſhould neglect to bring from abroad theſe foreign troops to defend the country; and how he could impeach the miniſter for doing that which was againſt law? To this he would anſwer, that if the country could ſuffer the incapacity of a miniſter to bring it into ſuch a ſituation, it would not be worth while to impeach him, for the country would be paſt the poſſibility of being ſaved. If this idea had not fallen from Gentlemen recently attached to miniſters, he ſcarcely ſhould have imagined it probable to have been entertained. They were anxious to manifeſt their confidence in the wiſdom and promptitude of adminiſtration, and certainly had the beſt claim to ſincerity, when they advanced any arguments that hinted at their imbecility. He was of opinion, however, that a deſcent on the country might not be improbable, if Gentlemen candidly conſidered in what manner our navy was employed. At preſent a large portion of the navy was aſſiſting at the reduction of Corſica, while our trade was neglected, and captures made daily in the Mediterranean, and even in our own Channel.

Mr. Sheridan declared that he had no objection to vote for a Bill of Indemnity, for a meritorious violation of the law, nor would he be the laſt to move for their impeachment for leaving the country in a ſituation almoſt entirely defenceleſs.

If it were the wiſh of the King to land a foreign force, he maintained that any conſtruction which could be put on the Bill of Rights was a paltry conſideration, compared to the conſequences that muſt reſult from ſuch a meaſure. He did not wiſh to ſpeak of any particular Sovereign, when he aſſerted, that Kings in general thirſted for power, and their miniſters were ſeldom known to reſiſt their propoſitions. The Militia Act enjoined, that if the domeſtic force of the country was neceſſarily to be called out, the circumſtance ſhould, as ſoon as convenient, be ſubmitted to the Houſe. But if in an interval of anarchy, 50,000 foreign troops were to land in the kingdom, who would aſſert that the reſponſibility of the miniſter was a ſufficient apology for the meaſure?

Much ſtreſs, Mr. Sheridan obſerved, had been laid on the immediate communication to Parliament. What law was there to compel that immediate communication?—Reprove or impeach the miniſter.—Of all men, he ſhould like the leaſt to reprove the leader of an army of foreign troops. While the

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Houſe was dividing on the reproof, they might meet his advanced guard in the lobby. What legal ſurety was there afforded to the Houſe for this miſerable ſecurity, when the terms of an armed force may with much eaſe enſure a majority? Where would the virtuous minority that would venture to oppoſe ſuch innovators be to be found?

The next point that challenged notice was the precedents. What occurred in the year 1758, when the late Lord Chatham was in adminiſtration, was one of thoſe quoted; and another, which was not a little extraordinary, of the year 1784, on the very day it had been voted, that the miniſters of the Crown had forfeited the confidence of the nation. At that time it had been mentioned, that miniſters had introduced foreign mercenaries without the conſent of Parliament, and that then no Bill of Indemnity was required; but this he contended was unneceſſary, as the Houſe had voted that his Majeſty's miniſters had forfeited the confidence of the Public. In certain caſes he did not conceive it proper, or good policy, to lock up the hands of the executive power. There were certain principles however in a free government under a free conſtitution, from which the Houſe ſhould never depart. If it were true, that, in voting the army eſtimates, and the eſtimates of the navy, the expoſure of our finance, and other circumſtances, was diſadvantageous to make public; ſtill, conſidering that the ineſtimable advantages which depended on keeping the ſpirit of the conſtitution inviolate were put into the oppoſite ſcale, there was no Member in the Houſe who would not ſay, that the conſtitution of the country ſhould be held ſacred; and that a trifling blemiſh did not obſcure the valuable privileges that reſulted from it, when its other forms were impartially contemplated.

His Hon. Friend had ſaid, that the queſtion was an abſtract one; he agreed with him that it was ſo, and was glad that he ſo conſidered it. In the caſe of the Regency, an abſtract queſtion had been ſtarted upon the aſſertion of a great conſtitutional authority, and it was then of ſufficient moment not only to cauſe the allotment of a particular day for the diſcuſſion, but to be brought repeatedly into mention in many ſubſequent debates; on the preſent occaſion he thought it neceſſary that the queſtion ſhould be fully decided, if it were only to know whether the right exiſts in the Crown; if not, the caſe of the landing of the Heſſian troops in the Iſle of Wight would prove a more fatal precedent than any other: For the notoriety of the fact would remain; and the acquieſcence of the year 1794 would laſt as a diſgrace, and

ſooner or later operate moſt banefully and perniciouſly to the conſtitution.

The real queſtion lay in narrow bounds. Let it be proved that the prerogative contended for had always exiſted, that it was ſafe, and ſubject to proper control. Every control of the executive power was attended with ſome diſadvantage, but the general reſult was of ſuch ineſtimable benefit as far to outweigh all the partial inconveniences. For theſe reaſons, Mr. Sheridan thought it of the utmoſt importance that the queſtion ſhould be ſettled; and he was ſure that his Hon. Friend (Mr. Grey) would perſevere, from year to year, if neceſſary, to call it into conſideration till it was finally decided and ſet at reſt for ever.

The Attorney General declared himſelf anxious to ſay a few words on the queſtion before the Houſe: He hoped therefore he ſhould be allowed a momentary indulgence. The Houſe, a fortnight ago, had agreed that it was improper to decide on the legality, or illegality, of introducing foreign troops into this country; yet that night it was called on to grant a Bill of Indemnity for the very meaſure, which they had refuſed to reſolve to be legal or illegal. The Houſe, he was certain, would not ſacrifice its character by ſuch inconſiſtency, nor would it then adopt a motion ſimilar to one which it had rejected on a former occaſion; though not, perhaps, in words, yet clearly in import and ſubſtance. He conſidered the prerogative of the Crown to be as ſacred as any other branch of the conſtitution. There was no prerogative veſted in the hands of the executive power that was not liable to abuſe; but if it was abuſed, the Houſe and the nation could puniſh the miniſters who adviſed the Crown, and whom the conſtitution made reſponſible for its errors. He agreed with the Hon. Gentleman (Mr. Sheridan) that if the miniſter were at the head of 50,000 men, it would be difficult to make him reſponſible; but the ſuppoſition was too extravagant to comment on, and the argument made not more againſt our own than againſt every ſpecies of government. He contended, that the Militia Bill was not at all concerned in the preſent queſtion. He aſſerted, that governors muſt act in the ſame manner as individuals, if it was thought adviſable to grant them any power; they muſt alſo be allowed the means of maintaining their authority, or elſe ſuch powers could not exiſt to any uſeful purpoſe. The precedents he would decline diſcuſſing, but he denied that they decided the queſtion. In the rebellions, Parliament did not paſs an Indemnity Bill on the ground of foreign troops having been ſent for; though

propoſed at the proper time, it was rejected. One Bill did indeed paſs that Houſe, but it was thrown out in the Lords. He was certain the Houſe would not decide on the illegality of the introduction of theſe troops, if it meant to bring in a Bill of Indemnity, for which he could not ſee the ſmalleſt neceſſity: It ought firſt to come to ſome ſpecific reſolution on the illegality. The Attorney General concluded with contending, that no argument, drawn from the danger of the abuſe of power, ought to have weight with the Houſe to determine its deciſion, reſpecting a queſtion ſo nice in its nature, and which had for a variety of reaſons better remain as it was.

Mr. Serjeant Adair denied, that he had been guilty of any inconſiſtency. He was ſatisfied of the illegality of landing foreign troops. He had moved the previous queſtion on the former motion, becauſe he conſidered the particular act as having received the ſanction of Parliament; and he ſhould vote for the preſent motion, becauſe the general principle, that it was legal to land foreign troops without the conſent of Parliament, had been maintained.

The Earl of Wycomb ſaid, late as the hour was, he muſt beg leave to trouble the Houſe with his opinion on a point ſo generally intereſting, becauſe ſo conſtitutionally important, that if every idea of the conſtitution which he had been able to collect for himſelf, or had received from education, was not founded in prejudice, the King had not the prerogative which was now contended for. Till this political hereſy was done away, the conſtitution could not, in his judgment, be regarded as ſafe. He allowed the preſent to be a ſubject of grave and ſerious import, and a queſtion which naturally and materially concerned the rights and liberties of the people. There was every reaſon for the people of England to look with jealouſy and diſtruſt on the proceedings of miniſtry. Nor could he wonder at his friends and the people being enraged, when they ſaw foreign mercenaries introduced into this country, at a time when our own troops were ſending out of the kingdom to ſerve in the Mediterranean, to procure the conqueſt of Corſica, to aid the combined army in Holland, and to attempt the capture of territory in the Weſt Indies. He was not ſurpriſed that diſcontent ſhould be general through the kingdom, when the people ſaw Heſſian troops introduced to protect and defend the coaſts from the attack of an enemy. The introduction of theſe troops was neither conſiſtent with the eſtabliſhed conſtitutional maxims of economy, and he was certain it was repugnant to the very idea of rational policy. Much as he valued foreign conqueſt, he preferred domeſtic felicity, which he could not be ſure of, whilſt mercenary troops were

were in the country, or whilſt the miniſter had the power of introducing them into the kingdom. He recommended the Bill of Indemnity, and ſaid, it was neceſſary, in a political view, for the reaſons which had been already ſo ably ſtated by a Learned Serjeant: That it was neceſſary, in an economical view, was too apparent to need illuſtration; and that it was requiſite, as a declaration of the ſentiments of the Houſe, would readily be believed, when the importance of the ſubject was conſidered, and the opinions, which had excited ſo much attention, were remembered.

He ſpoke of the ſtate of Ireland, which was left almoſt defenceleſs. Every man acquainted with the ſtate of Ireland, he ſaid, knew what apprehenſions were felt there—not from a war of Catholics againſt Proteſtants (for his Majeſty had no better ſubjects than the former), but from a war of the poor againſt the rich. He ſhould vote for the motion of his Hon. Friend, conſidering the power which it was meant to diſallow, as unfit to be poſſeſſed by the Sovereign of a free people, and as a Bill of Indemnity in this caſe might eſtabliſh a neceſſary and uſeful precedent, which might prevent future miniſters from tranſgreſſing the limits preſcribed by the conſtitution.

Mr. Smith ſaid, that the illegality of introducing foreign troops into this country could not be queſtioned: No conſtitution could contain a principle which was *felo-de-ſe*, which ſtruck at its vital part, and endangered its exiſtence. It had been aſſerted by the miniſters of the Crown laſt year, in that Houſe, that the executive magiſtrate could build barracks in any part of the country he pleaſed; and, when built, Parliament might take into conſideration the propriety of their being erected. If the Crown had alſo the power of introducing foreign troops, he could not tell what further power it would think neceſſary. If the Crown was veſted with ſuch dangerous prerogatives, it would be equally deſpotic with any others in Europe, firſt to build whatever fortreſſes it pleaſes (for barracks not having a legal definition, fortreſſes might be built under that name), and then to introduce thoſe foreign troops to garriſon thoſe fortreſſes which may be procured by treaty, or by pay: What can it fear? what may it not accompliſh? Might not fortreſſes ſo garriſoned bid defiance to all the power of the country? Gentlemen aſked, what was the uſe of the Bill? Its uſe was obvious. It would declare the act of introducing theſe troops to be illegal, and eſtabliſh a valuable precedent; as in the preſent inſtance, the neceſſity had ſufficiently juſtified the meaſure to entitle miniſters to an indemnity, and the Bill would prevent an ill-intentioned miniſter, if ſuch an

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one ſhould ever be found, from landing ſuch a number of foreign troops as might ſufficiently overawe that Houſe into an approbation of all his ſubſequent meaſures? Mr. Smith ſaid, he would not reply to any of the arguments of the Attorney General, who ſeemed at a loſs how to act on this ſubject. On a former night he had wiſhed the queſtion not to be decided, but that night he wiſhed not himſelf to decide.

Mr. Powys ſaid, that the fair inference of the arguments which had been advanced in ſupport of the motion that night was, that a ſuſpicion and a jealouſy were entertained of his Majeſty's miniſters. If there were any grounds for that ſuſpicion, Gentlemen ought not to come forward with their Bill of Indemnity, but ſhould make a motion for impeachment, and lay before the Houſe, and the country, their motives and their reaſons for entertaining ſuch ſuſpicions. He ſaid, he had voted for the Bill of Indemnity in 1775, but thought the preſent caſe came within the precedent of 1784, and ſhould therefore vote againſt the motion.

Mr. Adam ſaid, he would detain the Houſe but a few moments. Nineteen years ago he ſupported adminiſtration: At that time the momentary introduction of foreign troops was neceſſary; after deliberating with the Hon. Member who ſpoke laſt, he determined that a Bill of Indemnity was neceſſary, and in all the reflection and conſideration which he had ſince been able to give the ſubject, he never had felt the ſmalleſt inducement to change the opinion which he had then formed. His Learned Friend (Adair) had laid down ſo very ably the common law, that it was unneceſſary for him to ſay a word on the ſubject, but he aſſerted that there was no free conſtitution in this country, if the Monarch introduced foreign troops without conſulting his Parliament. In 1715 and 1745, he allowed the Parliament was ſilent; but it by no means followed, becauſe Parliament did not interfere, that the law was altered. What was the opinion of Lord Mansfield, that great and reſpectable authority? At the time of the Corn buſineſs before alluded to, he thought a Bill of Indemnity abſolutely neceſſary, as well for the ſafety of the miniſters, as for the preſervation of the conſtitution. He ſaid, he would keep his promiſe to the Houſe of not going at large into the queſtion; but that, after the moſt ſerious deliberation, he was determined to ſupport the Bill.

Mr. Fox ſaid, it was not his intention to go into argument, after the able diſcuſſion the queſtion had received from his Learned Friend (Serjeant Adair); nor indeed was there occaſion; for none of the arguments that his Learned Friend

had advanced, were in the leaſt refuted. His Hon. Friend (Mr. Adam) had conſidered the ſubject in a plain but manly point of view. He had weighed it with that dignity becoming a great mind and an able Senator; and, from what he had heard advanced by him, and from his own opinion on this important ſubject, he concluded, that if the introduction of foreign troops into this country was legal, to talk of liberty was abſurd, to ſpeak of a free conſtitution was weakneſs. If the Houſe did not come to ſome reſolution on the illegality, all the libels of thoſe, who ſaid we had no conſtitution, would be converted into melancholy truths; and even Mr. Paine himſelf had not written a word of falſehood; but the queſtion had been that night too well argued for him, or any unprejudiced man, to entertain a doubt on the ſubject. Ought ſuch a queſtion to be agitated in a free Parliament? Ought ſuch aſſertions, as had been advanced, to find their way into this Houſe? Or ought we to remain a moment in doubt, whether ſuch a dangerous and arbitrary power ſhould be veſted in the hands of the executive magiſtrate? If there is, or if there ſhould be, ſuch power in his Majeſty's miniſters, all he would ſay was, that every idea he had formed of the Britiſh conſtitution was vaniſhed; and as long as he remained in that Houſe, and had the liberty of ſpeech, he would remind the Houſe of its ſituation; and echo it again and again to the country that it was not the intention of our anceſtors that his Majeſty's miniſters ſhould poſſeſs ſo dangerous an authority. The Attorney General had, although he oppoſed the motion, again declined to ſtate his own opinion on the general queſtion; but it was not very difficult to gueſs what his opinion muſt be, for if it had been conformable to the miniſters' opinion, it would not have been withheld. Indeed, Mr. Fox ſaid, he was ſurpriſed to ſee the Attorney General ſo ſoon forget thoſe ſentiments he had advanced on a former night: He ſeemed to feel the difficulty of his ſituation, and he (Mr. Fox) was afraid, he could not help him out of that difficulty. If his Hon. Friend (Mr. Adair) ſhould ever be Attorney General, under ſuch circumſtances he was ſure he would adviſe a Bill of Indemnity. Indeed, he had every reaſon to ſuppoſe his Hon. Friend would perſevere in his reſolution; and in him, he was certain, the country would not have a timid Attorney General.

Much had been ſaid on the ground of precedents. Did the precedents prove the legality? It had been contended on the preſent occaſion, that the queſtion ought not to be diſcuſſed, becauſe the illegality was clear. What had been the opinion of ſeveral Gentlemen that night, might have been the

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opinion of Parliament on former occaſions, and prevented any formal declaration on the ſubject. He was ſure it was ſo in 1784. But the queſtion had been in the preſent inſtance agitated, and let Gentlemen be enabled to tell their conſtituents whether or not they ſtill had a conſtitution. The argument of reſponſibility would juſtify any prerogative; but it was a very different thing to be able to tell a miniſter that he was wrong, and arreſt him in the very firſt ſtep, and to be obliged to watch him in his progreſs in order to prove ſomething wrong, when the proof might come too late. The King could call and diſſolve Parliaments, but he could not prevent the meeting of Parliaments, becauſe for the abuſe of ſuch a prerogative there would be no means of redreſs. Juſt ſo was it with that now contended for: If it were poſſeſſed by the Crown, it would carry with it the power of preventing all control. If the King without ſuch a prerogative were to attempt bringing a foreign force into the country, all men would ſee that it was a violation of law, and be prepared to reſiſt it.

He flattered himſelf that the Right Hon. Gentleman over againſt him was aſhamed of the aſſertion he had made on a former debate, and that, as to the illegality of introducing theſe troops, there was but one opinion. He truſted that the Houſe would execrate the idea of the Crown's having this power; and he ſcarcely doubted that it would be equally execrated through the country, in different parts of which different opinions were entertained on this ſubject. The objection made that night to the motion was, that becauſe Bills of Indemnity were unuſual, they ought not to be granted. On a former night the motion was refuſed, becauſe it was deemed unneceſſary. Indeed, there were different opinions in the Houſe on this clear and conſtitutional principle; ſome Gentlemen ſaid, they ought not to interfere, becauſe the meaſure was illegal; others juſtified the proceeding; whilſt others refuſed giving any vote on account of the illegality.

With regard to precedents, they had been ſo fully debated, he would not trouble the Houſe. It would, he thought, be criminal to ſit ſilent, and not at leaſt eſtabliſh a ſettled precedent for poſterity, ſince it was the ſilence of our Parliaments, on ſimilar queſtions, that gave us the ſmalleſt cauſe to doubt of the illegality; but our anceſtors never imagined that there would have been any ambiguity in conſtruing the Act of Settlement. Had this occurred to the great men who framed that Act; or had they entertained the ſmalleſt doubt that the legality would be diſputed, they would have guarded againſt the deluſive and the artful practice of endeavouring to con-

found right and wrong, truth and falſehood, ſo often reſorted to in caſes of difficulty by the ſervants of the Crown.

A Gentleman had alluded to the caſe of a ſick Heſſian, and had aſked, whether, for receiving him on our coaſt, would a Bill of Indemnity be required? And this caſe, he ſaid, applied in the preſent inſtance: But why would any Gentleman uſe ſo abſurd an argument? Was that the caſe, or was it not? When the meſſage was ſent by the Crown, it had been aſked how many foreigners were to be introduced? His Majeſty's miniſter anſwered, he could not declare. It had been demanded, how long they were to remain in this country? On that head they were equally uninformed. It now turned out that this kingdom was to be the rendezvous of this foreign army, and here they were to remain till a deſcent on France ſhould be practicable. He declared he ſhould be happy that the Houſe would agree to the motion, and go into the Bill; the legality of the power would then be fully diſcuſſed; and the people of Great Britain would then know if they were free, or whether their conſtitution was worth protecting.

It had been ſaid, that every prerogative was carefully watched over, and that miniſters were reſponſible for every abuſe. He ſuppoſed miniſters would not engage in a meaſure declaredly illegal, unleſs they had ſome grounds to juſtify that illegality; but if their intentions were pure, if their intentions were upright, what objection could they have to the propoſed Bill of Indemnity? He could not ſee into the hearts of men, but he knew miniſters were almoſt neceſſarily attached to prerogative, and often increaſed it to anſwer ſome favourite object. He alluded to the argument that had taken place reſpecting the corn laws *, and quoted the authority of the late Lord Mansfield, to ſhew the propriety of miniſters ſeeking indemnity, when even neceſſity ſhould urge them to act illegally. Nothing could be more dangerous than this, except the Crown refuſing to aſſemble Parliament. If miniſters could introduce foreign troops when the Parliament was ſitting, they might as well attempt it when it was not ſitting. When every ſubject ſhould riſe in arms to oppoſe them; and, ſupported by the law, ſhould bring them to a proper ſenſe of their duty.

Mr. Fox, in ſtrong terms, recapitulated ſeveral of the arguments which had been advanced in the debate. He truſted

* In 1784, when Lord (now Earl) Camden, being Preſident of the Council, iſſued a proclamation, laying an embargo on all ſhips in the different ports freighted with grain, and outward-bound, there being at that time a dearth of corn in the kingdom apprehended, which might poſſibly have created a famine, if not timely prevented.

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Gentlemen would recollect their ſacred ſituation; and he hoped they would not return to their conſtituents, and tell them, the miniſter has the power to introduce foreigners at his diſcretion. They would not ſurely addreſs them in theſe terms, for ſuch alone would truly deſcribe their conduct, if they voted againſt the motion from an idea that it was immaterial: "With regard to mercenary Heſſians, we have repoſed in the miniſter that power which we are jealous of our giving our own militia. We have permitted him to ſend from the country our own regular troops; and have ſuffered him to ſubſtitute in their place, Pruſſians, Heſſians, Auſtrians, or Ruſſians. We have ſurrendered thoſe rights which our fathers have ſtruggled to procure; we have repoſed in him that unlimited confidence which his predeceſſors were never ſuffered to enjoy. We give our liberties to be protected by ſtrangers, who are ignorant of their value. We have thus ſported with your freedom." No, ſaid Mr. Fox, let us not betray the truſt repoſed in us: Let the Crown Lawyers come forward, and not decline giving their opinions: Let them defend this important point: Let them declare the language of the Britiſh law, which is ſo clear and deciſive on the ſubject; and let no man in the Houſe of Commons conceal his thoughts on this material, this fundamental principle. He ſaid, he would vote for the Bill; though he would not deny that he preferred the former motion; it was a regular and parliamentary proceeding. The late Lord Mansfield had aſſerted, that this was a proper mean through which the opinion of Parliament may be declared. On the deciſion of that night the liberties of Engliſhmen were at ſtake. If the motion ſhould be negatived, one of two ideas, he knew not which the moſt miſchievous, would go abroad; either that the Houſe had affirmed the legality, or that, from timidity, and deference to men in power, they had ſhrunk from the inquiry. If it was aſked why deciſions were not called for on other points of the conſtitution as well as upon this, Mr. Fox ſaid, he would anſwer, becauſe on moſt other conſtitutional points there was no material difference of opinion; but here a new and dangerous claim of prerogative had been maintained, by great abilities and great authority. The former motion was, in his opinion, preferable to the preſent; but as the Houſe had not left him the liberty of choice, he ſhould vote for the preſent motion.

The Chancellor of the Exchequer ſaid, that he would follow the example of ſome of the Gentlemen who ſpoke laſt, by offering the obſervations he had to make in as ſhort and ſummary a way as poſſible. He felt it incumbent on him not to

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be entirely ſilent, although he thought it by no means neceſſary to enter at length into the wide range of diſcuſſion which had been taken that night, as the true and ſubſtantial point on which the queſtion moved, lay within a very narrow compaſs. The plain queſtion before the Houſe was, whether, having a fortnight ago decided that a declaration on the ſubject of the King's power to introduce foreign troops in time of war into theſe kingdoms, without the previous conſent of Parliament, was uncalled for, they would now conſent to the introduction of a Bill of Indemnity, which aimed at the ſame object by leſs applicable, and ſtill more objectionable means? He did not think it poſſible that Gentlemen, who had voted againſt the declaration, would think themſelves called on, by any additional arguments which had been that day adduced, to vote for the preſent motion. To elucidate the matter completely, and bring the whole of the queſtion more immediately before the judgment of the Houſe, it would be neceſſary for him ſhortly to recapitulate the propoſition which, on the former time of diſcuſſion, had been laid before them, and the general ſcope of the arguments on which they had grounded their rejection of it. The propoſition was neither more nor leſs than for that Houſe to declare, that the bringing of foreign troops into the kingdom, without having the previous ſanction of a poſitive Act of the Legiſlature, was illegal. What were the arguments which had induced them, when that propoſition was made, to put their negative on it? On the former day one ſet of men had objected to the declaration, on the ground that an abſtract queſtion was not at all neceſſary to be decided, ſince our anceſtors had wiſely avoided coming to any preciſe declarations on the ſubject; others had objected to the particular propoſition, as unwarranted by law, and unſupported by argument; and another ſet of men had objected to it, becauſe, in their minds, the fact on which it was to be grounded, was too narrow and confined to call for a meaſure of that extent. Among the latter claſs, in particular, the Learned Serjeant who ſupported the preſent motion (Adair) had objected to the former. On ſome one or other of theſe, he ſaid, all who had agreed to the rejection of the motion had voted. What was now propoſed? A Bill of Indemnity (which neceſſarily implied that ſomething illegal had been done, and made it neceſſary) for an act which they had themſelves, on full diſcuſſion and mature deliberation, declared not to be illegal. Nothing could be more evident, than that they muſt firſt make a ſpecific declaration of the illegality of the act, or a Bill of Indemnity would on the face of it be an abſurdity; and the very preamble of ſuch a Bill, if they were induced to

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paſs it, muſt premiſe, and in the out-ſet contain, a declaration of a principle, the exiſtence of which was poſitively denied, but which, if it did exiſt, was, by the confeſſion of the Gentlemen who ſupported the preſent motion, not at all applicable to the point to which the propoſed meaſure tended to apply it. All thoſe, therefore, who were againſt a declaration, muſt, in conſiſtency with their former opinion, refuſe their aſſent to a motion which had all the original objections upon which they acted, together with the new objection, that if the abſtract queſtion were to be found right, a Bill of Indemnity would not be the beſt remedy.

He repeated it, that it had been the wiſdom of our anceſtors to abſtain from the diſcuſſion of all nice and delicate queſtions of prerogative; and whenever they felt themſelves called upon by a ſpecial caſe to interfere and decide a conſtitutional point, by a preciſe definition, they adhered ſtrictly to the ſingle caſe, and went no farther than the caſe demanded. Thus the Bill of Rights had left the preſent queſtion untouched, for it decided only in a general manner on the points which were felt to be exiſting grievances. This reaſoning applied with peculiar force to the preſent caſe; for the Houſe would firſt, ſurely, inquire whether the circumſtances demanded their interference, and whether, if it was neceſſary for them to interfere, the meaſure was commenſurate to the occaſion. They had decided the firſt of theſe propoſitions; and having found that the circumſtances did not demand that they ſhould depart from the wiſe and prudent courſe of their forefathers, they would hardly agree to the paſſing of a Bill proceeding upon a declaration that they had already rejected. The queſtion was preciſely the ſame as to all the objections which lay againſt the other, but it was not the ſame as to the arguments that might be urged againſt it. In order, however, not to reſt this on his own naked aſſertion, he ſaid, that he would ſhortly conſider the arguments on which Gentlemen had endeavoured to perſuade the Houſe to depart from its former deliberate deciſion. The arguments uſed for the ſupport of the motion, were, firſt, That it was unwiſe in Parliament to leave any caſe of conſtitutional doctrine which had been ſet afloat unſettled. He averred that ſuch had been the practice of Parliament in all the moſt difficult caſes; they had been ever loath to follow up to ſtrict and preciſe definitions, queſtions which might be better left to practice, and had always avoided coming to any deciſion upon them, unleſs in caſes of ſuch preſſing exigency as to render deciſion unavoidable. Was there reaſon, he aſked, to think that the conſtitution would be at all better, if every caſe that was brought before the Houſe, was to be

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followed up with all the metaphyſical abſtract diſtinctions that able and ſubtile men could carry it to?

Gentlemen had thought fit to raiſe an alarm, by maintaining and proclaiming that doctrines were aſſerted injurious to the conſtitution; and it was inſinuated, that the caſe of right, whether in the prerogative or not, had never yet been fairly brought into diſcuſſion. The fact was directly the reverſe; and no great cauſe for alarm, he ſhould imagine, could be found in a caſe to which mens minds muſt have been turned ſo often, and upon which they had never thought it neceſſary to come to any deciſion. That it muſt have been often preſented to mens minds was obvious, ſince a ſingle war had not occurred ſubſequent to the Revolution, in which grounds had not been furniſhed for a proceeding of ſome kind or other on the ſubject, if Parliament had thought it neceſſary to interfere. In fact, the queſtion had often been diſcuſſed. On one occaſion a Bill of Indemnity had paſſed that Houſe, and had been thrown out by the Lords. He held in his hand another inſtance exactly in point. In 1776, a motion for a Declaration had been made in that Houſe exactly ſimilar to the one made a fortnight ago, except that, inſtead of the words "into theſe kingdoms," it was ſtated, that "the Crown had no right to introduce foreign troops in time of war into any of his Majeſty's foreign dominions, without the previous conſent of Parliament;" and this motion underwent a long diſcuſſion. The previous queſtion was then moved, and was carried by a great majority of 149 againſt 88. Since, therefore, it had been the uniform practice of Parliament to avoid coming to any declaration on the ſubject, what was there in the preſent circumſtances that ſhould induce them to depart from a policy ſo wiſe and ſo manifeſt? He had not heſitated on the former day to ſay explicitly, that, though he had no objection to the previous queſtion, yet he would have been willing to meet the queſtion fairly upon the merits; becauſe he was convinced that it was not illegal in the King to introduce into this kingdom foreign troops in time of war, provided that the meaſure was accompanied by what was the undoubted duty of miniſters, *viz.* that they ſhould take the earlieſt opportunity of communicating the fact to Parliament, ſtating the occaſion upon which ſuch foreign troops were introduced, and taking the ſenſe of Parliament on the ſubject, by ſome mode, or form, well known in practice. Theſe, as far as he could recollect, had been nearly his words; and ſuch was the manly declaration which did ſo much honour to the Hon. Gentleman oppoſite to him (Mr. Thomas Grenville). That opinion was before the Houſe on the former occaſion, and it ought upon that occaſion

occaſion to have had its due weight and influence. Yet it had been that day confidently aſſerted, that the opinions which had been given made a Parliamentary declaration neceſſary: And the learned Serjeant had declared, that though he did not think the caſe itſelf ſo material as to demand any meaſure, yet, that in his opinion it did require, in ſome way or other, the interference of Parliament.

His own conduct, the Chancellor of the Exchequer ſaid, had been quoted, when, on a former memorable occaſion, he thought the aſſertion of an individual member a ſufficient ground for a Parliamentary Act. He certainly did, on that occaſion*, think the aſſertion in queſtion a ſufficient ground for a Parliamentary proceeding; but he had not thought ſo becauſe the aſſertion was merely the opinion of an individual, however high, but becauſe that opinion met them, *in limine*, at the very threſhold of the important buſineſs in which they were then engaged, and which therefore it was indiſpenſibly neceſſary to diſpoſe of in the firſt inſtance. But was that the caſe at preſent? Was any opinion that he might himſelf deliver, or that of any individual Member, of ſufficient importance to demand a meaſure of Parliament, or even of the Houſe? An Hon. Gentleman (Mr. Sheridan), who was of ſo ſingular a turn of mind, and ſo happy in the talent of reporting what fell from him, that he repreſented him with equal accuracy, whether he was preſent or abſent, had ſaid, that he had unneceſſarily and eagerly come forward to volunteer his opinion of the legality of introducing foreign troops in time of war. He had done no ſuch thing; but when a general challenge was thrown down, and aſſertions of the illegality were made with great warmth, vehemence, and peremptorineſs, he did feel that it would not have been manly in him, as he had an opinion on the ſubject, not to accept the challange ſo boldly given by the Learned Serjeant. Thus called upon, he had declared what was his opinion, *viz.* that the meaſure was not illegal either by the letter or ſpirit of any ſtatute; nor was the declaration demanded, proved or ſhewn to be either conſonant to precedents, or to the practice of Parliament. He did not heſitate in repeating the ſame opinion, and in declaring, that he knew no law to make it either wiſe, prudent, or neceſſary, to paſs a Bill of Indemnity on account of the late landing of Heſſian troops. Gentlemen

* In one of the debates during the King's illneſs on the ſubject of the Regency, when Mr. Fox declared, *His Royal Highneſs the Prince of Wales had as clear, as expreſs a* RIGHT *to aſſume the reins of Government, and exerciſe the power of Sovereignty, during the continuance of the illneſs and incapacity, with which it has pleaſed God to afflict his Majeſty, as in the caſe of his Majeſty's having undergone a natural and perfect demiſe.* Dec. 10, 1788.

to a Bill of Indemnity, he was ready to withdraw his motion, and bring the ſubſtance of it forward in any other ſhape whatever. His only object and his only wiſh was, that the conſtitution might be ſaved. To ſay that foreign troops were in this country only on account of ill health, and as a place of rendezvous, was abſurd. The ſame pretext might be uſed by bad miniſters, or a vicious Prince, to cover deſigns the moſt miſchievous and fatal to the conſtitution. The fact was, that vaſt numbers of Heſſians were landed at Portſmouth and the Iſle of Wight, without any ſatisfactory reaſon being given for ſuch landing; and when he ſaw Lord Moira exerciſing his Heſſian army, who could tell what deſigns his Lordſhip, in conjunction with miniſters, might have in view? Such were the dangers which threatened our country and our conſtitution! It was ridiculous to talk any longer of the reſponſibility of miniſters; for the very abuſes practiſed took away all the uſe and advantage of reſponſibility. It might as well be ſaid, that the King, after having declared war, could declare likewiſe that it would be too long to wait for the meeting of Parliament, and therefore he ſhould raiſe money by his own prerogative, becauſe the exigence of affairs required ſuch a procedure! Thus, under that futile pretext of the reſponſibility of miniſters, the moſt dangerous and deſpotic powers might be exerciſed by the Crown.

Mr. Grey declared, that, as long as he ſhould continue to ſit in that Houſe, he would never give up the point. He would continue from day to day to bring the queſtion forward under different ſhapes, until, with the aſſiſtance and abilities of his Hon. Friends who ſat near him, he ſhould at length be able to effect ſomething for the preſervation of our conſtitution, which there had been ſo many attempts to deſtroy. He conceived it to be a point of too much importance for the people to be left in ignorance, whether their liberties did or did not depend on the exerciſe of prerogative; which, he contended, was totally repugnant to the ſpirit and practice of the conſtitution, and the ſtatute law of the land: A prerogative deſtructive of all the rights and liberties of Engliſhmen, and by which they might be all overthrown at a ſingle ſtroke.

The queſtion was then called for, and the Houſe divided; when there appeared,

For the Motion 170—*Againſt it* 41——*Majority* 129.

At a quarter paſt one the Houſe adjourned till Monday the 17th.

HOUSE

HOUSE OF LORDS.

MONDAY, *March* 17.

Sir Iſaac Heard, Garter King at Arms, attended at the bar, with the pedigrees of Lord Courtney, Lord Gage, and Lord Clinton, which, after the uſual formalities, were ordered to be entered on the Journals.

Heard Counſel on an appeal from the Court of Scotland: The Rev. Mr. Leſlie, miniſter, appellant, and James Brodie, Eſq. reſpondent.—Ordered further conſideration of the caſe on Wedneſday the 19th.—Adjourned.

HOUSE OF COMMONS.

MONDAY, *March* 17.

The Merſey Navigation, Huddersfield Canal, Abingdon Paving, and the Militia Augmentation Bills, were reported, and ordered to be engroſſed.

Lower Compton Incloſure and Maze's Naturalization Bills were read a third time and paſſed.

Twenty Papers relating to Halifax were preſented: Ordered to lie on the table, and to be printed.

Mr. Burke moved, That the Managers of the Impeachment againſt Mr. Haſtings do inquire into the circumſtances which have occaſioned the continuance of his trial, and that they report their opinions thereon to the Houſe.—Ordered.

MILITIA.

Mr. Steele brought up the Report of the Committee for increaſing the militia by volunteers: He ſaid, that the families of volunteers who entered in the militia ſhould be left on the ſame footing as thoſe of ſuch as were choſen by ballot.

After reading the report, and the ſame having been agreed to,

On the queſtion, "that this Bill be engroſſed,"

Mr. Baker roſe, and obſerved that the meaſure did not appear to him to be adequate to the purpoſe for which it was profeſſedly brought forward. It was ſaid to be a proviſion againſt a danger which threatened the country. Nothing could be more clear, than that if the danger was imminent, our force ought to be equal to it; but the Bill did not appear to him to be of that nature. He had ſeen a paper, dated Whitehall, 14th of March 1794, which ſeemed to recommend a general ſubſcription for the purpoſe of carrying on meaſures, of which the Bill then before the Houſe was a part. He conſidered

ſidered that paper to be authentic, and for that reaſon he conceived it to be regular for him to allude to it. He muſt therefore ſay, he objected to that meaſure as an irregular one. Parliament was the only legal organ of the country, through which the people could ſignify their conſent to aſſiſt the carrying on of any plan, the expence of which was to be paid for out of the public purſe. He admitted that this was a point not immediately before the Houſe; but as ſomething ſpecific reſpecting it would in all probability be brought forward on ſome future day, he could not ſuffer that opportunity to paſs without making the obſervation that he had ſtated. The meaſure to which he had alluded could not, in his judgment, be legal at any time, or under any circumſtances, but leaſt of all during the ſitting of Parliament.

Mr. Serjeant Adair expreſſed his ſenſe of the irregularity of the meaſure of raiſing any public ſubſcription, to aſſiſt the carrying on of the purpoſes of the executive government, independent of the interference of Parliament. There ought, in his opinion, at leaſt to be an Act of Parliament to ſanction the meaſure.

The Chancellor of the Exchequer ſaid, the Bill before the Houſe was only a part of the ſyſtem which he had opened on a former day in a general manner, as a plan for the internal defence of this country, and for the purpoſe of enabling his Majeſty to employ his regular forces with more vigour abroad. The Bill then under conſideration was ſeparately and diſtinctly for augmenting the militia. It was, he ſaid, in contemplation with the executive power to take other meaſures which would require the conſideration of the Houſe. He did not then exactly and ſpecifically know the whole of what he ſhould hereafter find it his duty to ſtate; but upon the moſt mature conſideration he had been able to give to the ſubject, he was ready to declare, that the plan which ſhould be found to be the moſt conducive to the free exerciſe of the diſcretion of the Houſe in adopting, and the leaſt likely to be deemed unconſtitutional, was that which it was his intention to ſubmit.

General Smith condemned the mode of augmenting the militia propoſed by the Bill. The danger was either immediate, or had no exiſtence. If it was immediate, a certain and ſpeedy means of oppoſing the danger ſhould be adopted, which the preſent could not be called. If the danger was not immediate, no increaſe whatever of the militia was neceſſary.

Mr. Fox declared, that the meaſure ſaid to be going through the country, by way of a recommendation from his Majeſty to the people, to ſtand forth and aſſiſt the executive government with voluntary ſubſcriptions, he had held often, held now, and

was likely to hold in future, to be entirely illegal; and to be a meaſure moſt dangerous to the conſtitution of this country. If the object was to legalize that practice, he was perfectly ſure that there ſhould have been a Bill for that purpoſe. A Bill muſt paſs to authoriſe the application of ſuch money, even after it was raiſed, or not one ſhilling of it could be legally applied: And therefore it would not be ſatisfactory to him to hear that a Bill might paſs in the courſe of the proceeding. This opinion he had frequently given during the American war; and all he had ever heard upon the ſubject had not in the moſt diſtant degree tended to alter that opinion. Having ſaid this, he muſt confeſs, that with regard to facts upon the preſent caſe, he was without information: He ſpoke in that reſpect entirely from rumour. What had been ſent to the Lord Lieutenants of the counties, and what their anſwers might be, he knew not; but ſuppoſing the meſſage alluded to of a recommendation for the opening a general ſubſcription to have been ſent, he had no doubt that acquieſcing with ſuch a meſſage, and applying ſuch money, without an Act of Parliament, was not only illegal, but highly dangerous. Whenever the ſubject came forward, he ſhould be ready to argue it on the points juſt mentioned; and he hoped that the Houſe would not proceed on doubtful points, without firſt removing all difficulties that ſtood in the way of the regularity of the proceedings of Parliament.

Mr. Powys admitted, that ſubſcriptions to raiſe armies without the conſent of Parliament were illegal, or for the executive government to proceed on ſuch ſubjects in any points on which there had not been a Parliamentary ſanction: But the Houſe would judge of theſe points in due time, when they came under their conſideration. The only ſubject then before them was a Bill for the augmentation of the Militia.

The Bill was ordered to be engroſſed.

SLAVE TRADE.

Mr. Wilberforce moved, That the Bill for preventing the Supply of Foreign Territories with Slaves, &c. be read a third time.

Lord Sheffield ſaid, that from what he had to obſerve on the motion before the Houſe, he did not expect to pleaſe the Honourable Mover any more than he had pleaſed him in a former ſtage of the Bill. He muſt, however, ſay, that the preſent endeavour to hurry this buſineſs was ſhameful and ſcandalous, and ſurpaſſing all bounds of decency. It was well known that the merchants concerned in the foreign Slave Trade were to meet the next day; and, as far as depended on the proceedings

proceedings of the Houſe of Commons, they would loſe the benefit of that meeting: Under this conviction he ſhould move, that, inſtead of the word "now," the words "Friday next" be inſerted.

Mr. Wilberforce ſaid, that what he had juſt heard, was certainly not of a more conciliating nature than what the Noble Lord had been pleaſed to deliver on a former day; but he was not diſpleaſed with it, for he was a little more uſed to ſuch obſervations than formerly, and ſhould treat them with more temper. With regard to what the Noble Lord had thought fit to call ſhameful and ſcandalous, he muſt obſerve, that thoſe epithets, if applied to any thing, applied to the whole Houſe; for in making the motion now before them, he had only obeyed the order of the Houſe. He had nothing to urge upon the motion, the Houſe would determine as it ſhould think proper. He ſhould only ſay, that if any of the merchants had ſtill further reaſons to offer to the Houſe why the Bill now before them ſhould not paſs, they had time in abundance for that purpoſe.

Lord Sheffield explained.

Mr. Fox ſaid, the Bill before the Houſe had been as long perhaps in paſſing through its ſeveral ſtages, as any other in that or any former ſeſſion of Parliament, in which the queſtion it involved was equally well underſtood. What was the caſe here? The Bill paſſed a Committee of the whole Houſe. The whole of it was recommitted for the purpoſe of receiving any amendments to which the Houſe could agree, coming from the merchants and the planters, and others who were known to have wiſhes hoſtile to the Bill: For this purpoſe plenty of time was allowed. He ſhould be exceedingly ſorry, not only for the loſs of the Bill, but alſo for the delay of it; becauſe if there was any one thing more important than another for that Houſe to attend to in the execution of its duties, in his opinion it was that of taking care they did not, by negligence and fruitleſs delays, in matters highly affecting the principles of juſtice and humanity, bring their proceedings into diſeſteem, or their intentions into ſuſpicion. He thought that Houſe had very little ſhare in the delay which had taken place in the Parliamentary regulation of the Slave Trade, when Gentlemen recollected that years ago reſolutions were carried up from that Houſe to the Houſe of Lords; of which their Lordſhips poſtponed the conſideration (upon good grounds very likely), for almoſt a whole ſeſſion. He had heard much of the new calendar of the French; but he thought the proceedings of the Lords gave us a ſtill more extraordinary calendar. For the whole of the laſt ſeſſion, for the trial of Mr. Haſtings, their Lordſhips

Lordſhips afforded four days, and four hours to each day! They had put off that trial to a day in April! They then put off the further conſideration of the Slave Trade to a day after that, when it was well known that the diſcuſſion of either the one or the other of theſe important public points muſt materially ſuffer. He was anxious that the Houſe of Commons ſhould not contribute to that delay. Let them remember they were going to ſend the Bill then before them to a Houſe of ſlow proceedings. A new calendar they all knew had been adopted in another country. But the Houſe of Lords had a calendar ſtill more extraordinary: They had allowed for one great buſineſs 48 hours in the year, for the other only 16! This was a new mode of calculating time. He ſhould therefore adviſe the Houſe of Commons to take ſuch meaſures as that they might not fall under the cenſure of the Public in the progreſs of this buſineſs.

Mr. Serjeant Adair obſerved, that the Weſt India Merchants might have called their meeting before. They had not choſen to be heard by counſel, or to examine witneſſes in the Committee, and he did not ſee any ground for further delay.

Mr. Alderman Newnham ſpoke a few words.

Mr. Dent ſaid, that a few days could not make any great difference; and when ſo immenſe a property as 74,000,000 l. was in danger, it would be worth while to conſider for ſo ſhort a time as to Friday. He wiſhed to know, if the Learned Serjeant had been called on for a legal opinion in a matter of importance, he would not require a few days for conſideration. He doubted not but the Right Honourable Gentleman (Mr. Pitt) under whoſe ſanction this meaſure was carried through the Houſe, would ſoon have reaſon to repent the ſupport he had given it.

Mr. Francis ſaid, if ſeventy millions were concerned in this trade, it could not be affected by the Bill, which only went to prevent the ſupply of the foreign iſlands with ſlaves: And for a variety of reaſons there ought not to be the leaſt unneceſſary delay. The Houſe divided,

For Lord Sheffield's Motion	33
Againſt it	74
Majority	41

The Bill was then read a third time, and paſſed.

IMPRISONMENT OF M. DE LA FAYETTE.

General Fitzpatrick deſired the attention of the Houſe to the ſubject of which he had given notice. He ſaid he ſhould have new circumſtances to lay before the Houſe, before he ſhould

call upon them for new proceedings. He truſted that the motion he had to make, would appear to be ſuch as ought to intereſt the juſtice, the humanity, and the policy of this country; and therefore he did not much concern himſelf about the dry queſtion, Whether there was or was not a precedent of the kind on the Journals of Parliament. When the unjuſt and barbarous impriſonment of a man of diſtinguiſhed character in the Parliament of France was mentioned in that Houſe, and it was ſaid, that when the King of Pruſſia had been applied to for the releaſe of M. de la Fayette, and three other ſtate priſoners, he had anſwered, that they were not his priſoners alone, but the priſoners of the allied powers, without whoſe conſent he could not releaſe them, there appeared ſuch a general expreſſion of diſapprobation, that the Right Hon. Gentleman (Mr. Pitt) oppoſite to him thought fit, formally, in his place, to diſclaim, on the part of the executive government of this country, any ſhare in ſo iniquitous a tranſaction. He owned he thought ſuch a declaration, made by ſuch a perſon, in ſo public and diſtinct a manner, ſufficient to exempt the character of the Britiſh nation from the diſgrace and odium of having any ſhare in ſo execrable and barbarous a tyranny, and if an end could be put to the effect of that abominable cruelty by ſuch a declaration, he ſhould not think it either neceſſary or becoming that Houſe to proceed one ſtep further upon the ſubject; but as the caſe now ſtood, he thought the Houſe ought to ſee whether it was in their power to take any proceeding, the effect of which was likely to be that this unfortunate perſon ſhould be relieved from his preſent deplorable ſituation. If it were on the ground of humanity only, he ſhould have brought forward the motion with which he ſhould have the honour of concluding; but it was not on the ſingle ground of general humanity that he intended to reſt his obſervations; they ſhould be founded alſo on juſtice and on policy; and although ſome might think that the declaration of the miniſter did all that was neceſſary to wipe away the diſgrace which would have otherwiſe been fixed on this country, yet he thought he ſhould be able to convince every man, who heard him, from facts, with which the Houſe were not perhaps acquainted, of the neceſſity of their interference on the preſent occaſion.

The King of Pruſſia, upon being applied to for the releaſe of this unhappy perſon, as he had before obſerved, returned for anſwer, that the liberty of that perſon did not depend upon him alone; that, before he could be releaſed, other powers muſt be conſulted; and that their conſent was neceſſary. If ſuch was the caſe, the King of England was one of the powers thus alluded to by the King of Pruſſia, and if the whole

whole of the Britiſh nation looked with horror on the proceedings againſt the unfortunate gentleman in queſtion, he would aſk every man who heard him, whether it did not become the Houſe of Commons of Great Britain not to content itſelf with the mere declaration of the miniſter, but that they ſhould, as far as their influence and intereſt were concerned, diſclaim, for the people of this country, any ſhare in this infamous barbarity? General Fitzpatrick ſaid, he had had the good fortune, for ſuch he conſidered it, early to have cultivated the friendſhip of M. de la Fayette: He had retained it ever ſince, and had no reaſon whatever to repent or change his ſentiments with regard to that officer; he had always found him to be a man of the ſtricteſt honour, and in every reſpect a worthy and a reſpectable character. He could ſafely challenge the ſtricteſt ſcrutiny into his conduct during the whole of thoſe trying ſcenes, in which he had been engaged in common with every other Frenchman, and he was confident that, after the cloſeſt examination, he would be found to have been conſtantly, uniformly, and ſteadily the friend of good order and the law, as eſtabliſhed, and the promoter of the peace and happineſs of his countrymen.

The Houſe would give him leave to examine the political character of M. La Fayette in the French Revolution. At the firſt period of that extraordinary event, there was hardly a man in this country who did not admire it. Any perſon who had conſidered the affairs of France, muſt ſee that there were four claſſes of men in that country, who had appeared in the courſe and progreſs of the revolution: The firſt was divided into the two broad diſtinctions of royaliſts and republicans; the royaliſts were ſubdivided into thoſe who were advocates for the ancient deſpotiſm, and thoſe who were the advocates of a limited monarchy; the republicans again were divided into thoſe who wiſhed for a popular form of government by a repreſentative aſſembly, and thoſe who, profeſſing democratic principles, had eſtabliſhed the preſent tyranny which exiſts in that country. The latter, deriving all their ideas of government from clubs, ſoon ſunk under the furious tyranny of that authority; and, without tracing minutely the progreſs and circumſtances of the revolution, it appeared evident that of the latter claſs the maſs of the preſent rulers of the affairs of France was compoſed. He would put a queſtion: In which of theſe claſſes or deſcriptions of men were we to ſeek for that conduct which was moſt congenial to the ſpirit of the conſtitution of England? Moſt clearly to that, which favoured the eſtabliſhment of a limited monarchy. Of this M. La Fayette was a diſtinguiſhed member.

It might be ſaid, that the firſt conſtitution of France moſt materially differed from the conſtitution of England, and was ſo unſkilfully made, that it contained ſeeds of diſſolution and principles of ſelf-deſtruction, and muſt, ſooner or later, have terminated either in abſolute monarchy, or an entire republic. To this he was ready to aſſent; but then it muſt be obſerved, that thoſe, who formed it, fell into miſtake from error of judgment; that there were among them men of the beſt intentions; and that, in forming their conſtitution, they took the conſtitution of England for their model, although their country had not the good fortune to follow the example they had choſen, with accuracy and correctneſs. In this deſcription of men, and one of the firſt in the conſideration of the Conſtituent Aſſembly of France, was General La Fayette and three others; and who, for being ſo, were now in one of the dungeons of the King of Pruſſia. Was this, or was it not, true? Was this, or was it not, juſt? Whatever might be the opinions of men on the preſent affairs of France, and the ſyſtem at this time followed there, he would venture to aſk, What had been the general feeling of the people of Great Britain on hearing of the deſtruction of the Baſtile in Paris? To this deſtruction M. La Fayette had contributed; and although it was attended with ſome popular exceſſes, he did all he could to prevent them; and for ſo doing, he remained at this hour a priſoner in a dungeon of one of the baſtiles of the King of Pruſſia.

M. de la Fayette was appointed to command the national guard of Paris, and to lead the French revolution; a revolution which at that time was conſonant to the general feeling of all good men who heard of it, and particularly ſo with the people of this country at large. If we followed M. de la Fayette in every ſtep he took, from that hour down to the time of his flight, we ſhould find that he withdrew himſelf from the Jacobin club, whom he deteſted for their popular exceſſes, and their uſurpation of power; we ſhould find in him a ſteady friend to peace, to order, general tranquillity and happineſs; a ſupporter of the exiſting law; a fixed foe to anarchy and confuſion. He believed he might defy any perſon to ſhew a ſingle inſtance to the contrary. It was true, indeed, that his authority proved inadequate to the object that he aimed at atchieving; but he let no opportunity paſs without exerting himſelf in favour of good order and ſubmiſſion to the law, even at the hazard of his own exiſtence. M. de la Fayette's conduct on the 5th and 6th of October had been much miſrepreſented by his enemies, and ſtated againſt him as a crime; but, if examined impartially, it would be found to have been highly

highly to his credit. At that time commander of the national guards, the inſtant he heard of the tumult at Verſailles he haſtened there, in ſpite of threats of aſſaſſination, and, by unparalleled exertions of zeal and courage, he ſuppreſſed the violence of an outrageous multitude. The firſt thing he did was to induce the troops to renew their oath of fidelity; and then he proceeded to prevent every popular exceſs, and with his own hand reſcued fifteen of the King's guard, whom the populace had marked for deſtruction. It was to M. de la Fayette that all the Royal Family of France owed their exiſtence for a ſingle hour after that tumult. The Queen had publicly declared it was to him ſhe owed her life: Of this, General Fitzpatrick ſaid, there were in London at that hour perſons ready to bear teſtimony, that they heard that unfortunate Princeſs ſay ſo.

The only point of blame againſt him that had ever been urged with any degree of confidence on that occaſion, was, that he neglected his duty after this event. The truth was, that having conceived an opinion that he had perfectly reſtored tranquillity, and provided for the ſafety of the Royal Family, and having been ſixty hours without ſleep, and fifteen actually on watch, worn by the weather and the turbulence of the multitude, and exhauſted with fatigue, he ſuffered himſelf to be perſuaded to throw himſelf, undreſſed as he was, on a bed, to get ſome repoſe for an hour or two. The mob, during this interval, renewed their attack; and his enemies aſſerted, that he had retired with a view to ſuffer this renewal; a calumny which every circumſtance tended to refute. Inſtantly upon his being informed of this ſecond outrage, he again went to repreſs their violence, and ſucceeded. If we look at him afterwards, we ſhall conſtantly ſee him the defender of good order and the law, the oppoſer of tyranny and oppreſſion, from whatever quarter it aroſe. In April, when the unfortunate King had declared his intention of ſpending his Eaſter at St. Cloud, the mob roſe and oppoſed it, though the King had undoubtedly a legal right to go there. M. de la Fayette, unable to ſucceed in procuring his Sovereign this gratification of his deſire, reſigned his command of the national guards, and was univerſally ſolicited to reſume it; the people and the Royal Family uniting in the ſame requeſt. So much was the General beloved.

After this the King and Queen made their eſcape from Paris. In that regretted and ill-judged event, La Fayette was no participator. He diſpatched a meſſenger after the Royal Family; and he could not poſſibly do otherwiſe, circumſtanced as events were at that period; had he not done ſo, his own deſtruc-

deſtruction would have been inevitable; and Paris would again have been devoted to the moſt dreadful outrages. His meſſenger, however, did not overtake the Royal Family, for they were detained at Varennes before the meſſenger arrived. When the Royal Family arrived again in Paris, it was entirely owing to the zeal, the courage, and the magnanimity of La Fayette that they were not deſtroyed immediately. It was owing to him that Paris itſelf was not a ſcene of the utmoſt confuſion. He had the boldneſs and magnanimity to declare in a debate in the National Aſſembly, "that if any violence was offered to the King, he would, at the head of the national guards, proclaim Louis the XVIIth King." This once more ſilenced the fury of democracy in Paris, and reſtored order and ſubmiſſion to legiſlative authority. After this the Jacobin faction endeavoured to put an end to the freedom of the whole National Aſſembly; they were again oppoſed and repreſſed by La Fayette. On the 17th of July, in the Champ de Mars, he repreſſed an inſurrection againſt the conſtituted authorities, by force, and again overthrew the machinations of the republicans, who offered him the higheſt honours that the new republic could beſtow, if he would join them; but his anſwer proved him to be a determined enemy to oppreſſion, and convinced them that he was not a man to be tampered with, to do any thing contrary to his conſcience, and the conſtitution as eſtabliſhed by law. No man perhaps had ever ſacrificed more of his favourite purſuits in conformity to the dictates of his honour.

This great officer might poſſibly be charged with having diſcovered a diſpoſition for turbulence and diſorder, and it might be ſaid, that his principles were of a diſorganizing nature, becauſe he had declared, that reſiſtance in the people, in certain caſes, became their duty. It was true he had ſaid ſo; but he never had, nor ever intended, to apply it to any thing but tyranny, againſt which he ſo often hazarded his life, and what, to a mind filled with the ardour of military glory, was ſtill more dear, his popularity and fame. In ſhort, in his character nothing was to be found but pure love of order, and the perſonal ſecurity of the Monarch, who, he always told the French, ought to be the object of their love, as the reſtorer of a free conſtitution.

He then conceived a project, which he communicated to the King, to conſult on the effect of going to Montmedi. The King expreſſed perfect confidence in La Fayette, but, unfortunately for himſelf, did not accept of that offer; if he had, the reſult, in all human probability, would have been in his favour. At all events, it could not have been more unfavourable

vourable to his Majeſty than what actually afterwards happened.

The republicans then continued their violence down ſo late as the 5th of Auguſt, five days previous to the diſſolution of the monarchy. During all that time, the unhappy Monarch, diſtracted by a variety of counſels, and a rapid ſucceſſion of ſiniſter incidents, had delayed the plan. At laſt he adopted it, and diſpatched a meſſenger to inform La Fayette of his determination; it was, however, too late, the monarchy having been diſſolved. Commiſſioners from the Convention came to La Fayette, offering him any terms, and every honour which might flatter his ambition, if he would join their party, but he refuſed. What however was his conduct? He reſolved to ſtay no longer at the head of the army, nor would he lead them againſt his country; he nevertheleſs thought it his duty to place it in a ſtate of ſecurity, which he effectually did; inſomuch that General Clairfait, thinking the moment of retreat would be a good time to attack the enemy, found the French ſo advantageouſly poſted, that he thought it beſt to deſiſt. When Commiſſioners came to him, when with his army, by the authority of the Aſſembly to remove him from his command, ſtill he was faithful to his truſt and to his duty, and he conſigned theſe Commiſſioners over to the civil power, determined to ſupport the conſtitution and the monarchy, which he had pledged himſelf to defend. Immediately after this he paſſed the frontiers, with a determination of not joining the enemy of his country—and this was the cauſe of his dungeon and his ſufferings. If he had deſerted his country as a traitor, he would have been received with open arms. If, inſtead of conſigning the Commiſſioners who came to him to the civil power, to which the mildneſs of his diſpoſition induced him, he had delivered them over to the enemy of his country, we might have ſeen him at large, and his virtues extolled. If he had carried away with him the military cheſt, he would no doubt have received rewards.

But although he was determined not to ſupport the democratic fury of the ruling power of France, the generoſity of his nature would not ſuffer him to betray them. He paſſed to a neutral country, and on neutral ground (the biſhopric of Liege) was taken priſoner. He was invited by the promiſes of officers in the ſervice of Auſtria, who aſſured him he ſhould have a free paſſage to any place to which he wiſhed to proceed: Under the confidence of this he went, and, with thoſe officers who accompanied him, to the number of upwards of forty, was made priſoner. He was then transferred to a priſon belonging to the King of Pruſſia. He was offered his liberty on condition

of

of joining the army of the French princes. This he refuſed; and then the officers of the King of Pruſſia claimed him as a priſoner of their maſter, not as a priſoner of war; becauſe, when he was transferred, of all the other officers who accompanied him, forty were immediately releaſed; himſelf, and three others only, were detained, who had been members of the Conſtituent Aſſembly of France. He was confined ſpecifically as a priſoner of ſtate.

General Fitzpatrick ſaid, it would ill become him at that time to hazard a deciſive opinion on the law of nations, but he could not help ſaying, that if it were even conſonant to the law of nations, he ſhould think it hard to confine a man in one nation for a crime alledged to have been committed in and againſt another nation; or that a Prince of any country ſhould make a ſtate priſoner of an individual in his dominions, for the ſhare he had taken in the legiſlature of another country; for all the offence with which La Fayette ſtood charged, was his conduct in affairs which related to the internal government of France; and his confinement, from that day to the preſent moment, had been ſuch as no human being could juſtify. He himſelf, and the other three gentlemen, were kept in dungeons ſo unwholeſome and filthy, as to be fatal to their health, and hourly dangerous even to their exiſtence; debarred of communication with each other; and the only favour they had was the liberty of breathing freſh air for one hour in a day! Perhaps he might be told, that he was dwelling on circumſtances on which there could be but one feeling, but that the whole idea of our interference was improper, and that therefore his motion to addreſs his Majeſty upon the ſubject muſt be improper alſo. It was to that part of the ſubject he ſhould ſolicit the attention of the Houſe.

Firſt then, he muſt maintain, that we ought not to countenance the impriſonment of any man for the part he might have taken in the National Aſſembly of France; for that, as far as regarded the objects of this country, his Majeſty had no idea of the ſubjugation of France by external force. This country was moſt ſolemnly bound to protect M. La Fayette, if the proclamation of his Majeſty, iſſued on the 29th of October laſt, was not deluſive. That proclamation offered ſecurity and protection to all who ſhould throw off the yoke of a ſanguinary anarchy, and declare for a monarchical form of government. M. La Fayette had fled from anarchy, and had ſought protection under what was called a regular form of government. Engliſhmen were therefore bound to defend him on the one hand from anarchy, and on the other from deſpotiſm. If we did not interfere upon this occaſion, what reliance could the roy-

ſiſts place upon our promiſes and proclamations? They had been told, that the allies were diſunited and embarraſſed; would they not believe it, if we did not act upon ſome common principles? Nothing had done our cauſe ſo much miſchief in France, as the injuſtice and groſs impolicy with which we had treated thoſe who left the republic. They who remained ſaw that they had no hope but in the ſucceſs of the republic. Our conduct had converted a great number of our friends; and, he believed, it was now almoſt too late to remedy the evil. The principles of M. de la Fayette had been objected to; but every man ought to be judged by his actions, and not by his words. M. de la Fayette had held the right of reſiſting unlawful government, and he had exerciſed it not only againſt deſpotiſm, but againſt the people, when they had overthrown their lawful conſtitution. He muſt ſay then, that unleſs that declaration, publiſhed in his Majeſty's name, was, from the beginning to the end of it, a piece of mockery and deluſion, there could be no pretence on the part of this country to join in the impriſonment of theſe four gentlemen, on the charge on which they were now detained by the King of Pruſſia; for, by ſo doing, we take to ourſelves our ſhare of the diſgrace of that atrocious barbarity. What did the declaration of his Majeſty mean, if it did not mean a promiſe to afford protection to all the friends of the conſtitution in France in the year 1789? What had been promiſed to the people of France on our entering Toulon? Preciſely what he had already ſaid; protection to all the French who ſhould declare in favour of the conſtitution of 1789. Let the declaration ſpeak for itſelf. [General Fitzpatrick read the material parts of the declaration made on behalf of his Majeſty to the people of France, and to the inhabitants of Toulon ſpecifically.]

M. de la Fayette, and the other three gentlemen in priſon by order of the King of Pruſſia, he ſaid, came exactly under the deſcription of perſons in this declaration declared to be intitled to his Majeſty's protection and good offices. He deſired the Houſe to be aware of the probable effect of a general underſtanding going forth over Europe, that this country was not ſincere in this declaration, which muſt inevitably be the caſe, if we did not mark our diſapprobation of the impriſonment of theſe four gentlemen, the defenders of the conſtitution of 1789, and which his Majeſty profeſſed ſo much anxiety for reſtoring. It would neceſſarily follow, that if we ſhewed indifference on ſuch a point, there was no uſe in flying from the anarchy of France to other powers for protection; for that the effect of ſeeking the protection of a *well-regulated ſtate*, was to be liable to the ſame, or even worſe tyranny, and to be

kept in a dungeon; this could only tend to eſtabliſh the tyranny and fury of the French republic.

It had been ſaid it was difficult for us to negotiate upon ſuch a ſubject. Where was the difficulty he wiſhed to know. The Noble Lord, at preſent miniſter at the Court of Berlin, was ſufficiently ingenious and ſkilful, he was ſure, to be able to find out ſome happy moment to intereede with his Pruſſian Majeſty in favour of the unfortunate captives. When, for inſtance, he was ſoliciting his Majeſty to accept a ſum of ſeven or eight hundred thouſand pounds from this country, he might, perhaps with effect, ſtate the general wiſhes of the Engliſh nation.

He could hardly ſuppoſe that the conduct of M. La Fayette in America could be an objection to this motion. He had been, at the commencement of that war, only 19 years of age. In entering into it, he had done no more than his duty in ſupport of his country and his King. Every one in the Houſe would have been happy if the life of Louis XVI. could have been ſaved by our interpoſition; and the conduct of that Prince in the American war would ſurely not have been thought of as an objection; and if ſo, ſuch an objection ought not to be admitted in the preſent inſtance. A generous and brave enemy always forgave and forgot animoſities when the conteſt was over. There could be no impropriety in the application which he would propoſe. He had heard that a French gentleman had been ſent out of this country at the inſtigation of the Court of Vienna; if this were true (but for the honour of our executive government he hoped it was falſe) we had a right to interpoſe. If it were true, his Majeſty's miniſters had betrayed the confidence repoſed in them by the Houſe, by uſing a power which was intended for the ſafety of the conſtitution, to gratify the perſonal reſentment of Princes. How much more noble would be our interceſſion for mercy than their's had been for revenge! It would certainly pleaſe the natural benevolence of his Majeſty's mind; it would be a noble example of a free country endeavouring to reſcue the victims of anarchy and tyranny; and it would be an amiable exertion of a Chriſtian virtue, which would do honour to his Majeſty, and which, as a pious Prince, he ought to be deſirous of diſplaying, if it were only to preſent a contraſt to the immorality and atheiſm ſaid to prevail in France, and to confound and falſify the invectives of democrats againſt kings in general. It was ſaid, that kings were cruel and vindictive; he hoped and truſted that they were not actuated by vindictive motives. The illuſtrious Preſident of the United States of America, he underſtood, deſigned to make an application in

favour of his unhappy fellow-citizen. That illuſtrious character ſaw, with regret, the fate of his friend and companion in arms, into whoſe mind he had inſtilled his principles; but it was to be feared that the intereceſſion of the United States of America would have no great weight with the King of Pruſſia. "Let us then (ſaid he) diſplay to the world the advantages of a free conſtitution, and induce others to adopt it. Let us ſhew to the world, that where there is true, well-regulated, wiſely tempered liberty, there are to be found in an eminent degree juſtice, benevolence, charity, compaſſion, generoſity, and all the ſentiments and feelings that do honour to our nature." Having ſummarily collected the heads of the different arguments * he had urged for his motion, he concluded with moving, "That an humble Addreſs be preſented to his Ma-"jeſty, to repreſent to his Majeſty, that it appeared to that "Houſe, that the detention of General La Fayette, Alexander "Lameth, Bureau De Puzy, and Latour Maubourg, in priſon "by order of his Majeſty's Ally the King of Pruſſia, was injurious to his Majeſty and the cauſe of his Allies; and humbly "to beſeech his Majeſty moſt graciouſly to intercede in ſuch a "manner as to his royal wiſdom ſhall ſeem moſt proper for the "deliverance of theſe unhappy perſons."

Colonel Tarleton ſeconded the motion. In doing ſo, the Colonel profeſſed to decline entering into the general circumſtances of French affairs, of the cauſes which led to the various ſcenes which took place in that unfortunate country, or of the effects which followed them; or to expatiate upon the early virtues of M. La Fayette. The great exertions which that unfortunate man had made, in order to cruſh anarchy in the bud, and to prevent confuſion; his unparalleled attachment to his Sovereign, and his veneration and zeal for the promotion of the cauſe of genuine liberty, were, he ſaid, too

* Without meaning in the ſmalleſt degree to queſtion the veracity of General Fitzpatrick, or leſſen the credit of his narrative, we think it right to ſtate, that there are in town French ladies of the firſt quality (one of whom remained with the unfortunate Queen in the utmoſt confidence, attachment, and friendſhip, till the 10th of Auguſt 1792, and was ſaved moſt miraculouſly from the maſſacres of the 2d of September of that year), who utterly deny the whole of the General's ſtatement, as far as relates to La Fayette's conduct reſpecting the Royal Family of France. They conceive and declare La Fayette to have been officiouſly eager to aſſume the appearance of acting upon motives of perſonal love and regard to the King and Queen, while his meaſures were ſubſtantially hoſtile to their intereſts. Poſſibly this difference of opinion ariſes from a want of knowledge of the ſprings and principles of policy, upon which, in times ſo critical and dangerous, M. de la Fayette thought it beſt to colour and conduct his actions, having nevertheleſs the ſafety of their Majeſties ſincerely at heart.

univerſally known to require praiſe from him, or to derive luſtre from any eulogium that he could pronounce. He ſhould forbear to enter into a minute inveſtigation of that infamous combination of tyrants, the treaty of Pilnitz, which, at a time when France was about to eſtabliſh and enjoy ſomething like a temperate and rational freedom, in exchange for their former tyranny, rouſed, by its unjuſtifiable aggreſſions, the ſpirit of enthuſiaſm, inſpired the rage of madneſs, and gave riſe to all thoſe ſcenes of horror which have ſince defolated at leaſt half of Europe. At this period, General Fayette found himſelf at the head of the arms of France, by the unanimous voice of his country, for the purpoſe of repelling thoſe invaders. To prove the General's ſentiments at this period, the Colonel read an extract of a letter written by him from the entrenched camp of Maubeuge, upon the occaſion of debates held upon the queſtion, what degree of power ſhould be entruſted to the King? In this letter he ſtated, that he was for preſerving the Monarchy ſtrictly hereditary as heretofore; that the King ſhould be free; that he ſhould be at liberty to chuſe his miniſters, and not have the creatures of a faction forced upon him againſt his will. Theſe he declared to be his ſentiments, which he found it neceſſary at that time to avow, leſt the uncertain events of the war ſhould hereafter put it out of his power to do ſo. This letter, when it reached Paris, immediately excited the reſentment of the Jacobins againſt M. de la Fayette, who now firſt began to rear their head, and produced a formal accuſation of Fayette before the Aſſembly. Upon this occaſion what did that General do? Inſtead of marching to Paris at the head of the army, which, attached to him as they were at that period, he might eaſily have done, and made every thing ſubſervient to his will, he ſet off, and preſented himſelf almoſt unattended before the Aſſembly. He there ſo well defended himſelf againſt his accuſers, as to call forth their unanimous acquittal and approbation; and thus for a while truth obtained a triumph over villainy and treachery. This, however, was but of ſhort duration. Upon his return to the army, he quickly found his enemies had not been idle, but, taking advantage of his abſence, had corrupted the troops, and poiſoned their minds againſt the man whom they ſo lately adored. After the unfortunate 10th of Auguſt, he wrote a letter to his army, deſiring them to ſupport the cauſe they had ſworn attachment to, and to chuſe between their King and Petion. When he found that during his journey to Paris, his army had been corrupted by Jacobin commiſſioners, and was unwilling to comply with his wiſhes, inſtead of abandoning his principles, and taking advantage of the

the ſituation he held, he reſolved to ſacrifice every thing to the preſervation of them, and to fly his country, which he could no longer ſerve as thoſe principles dictated. He therefore departed from France with a few followers, intending to go to Holland, and from thence to America; that aſylum of liberty and peace. In going through a neutral territory, he was intercepted by an Auſtrian patrole, and taken; where he could neither be conſidered a priſoner of war, nor a traitor. The Colonel, therefore, hoped, when theſe facts were ſo evident, that, in juſtice to the preſent age, and to our Prince, we ſhould interfere, and reſcue an illuſtrious exile, whoſe ſufferings would be recorded on the page of hiſtory as an eternal ſtigma on the King of Pruſſia. The rigour, the ſeverity, the cruelty that had been exerciſed towards that unfortunate perſon, were ſuch as might well be ſaid to *draw the tear of pity down Pluto's iron cheek!* He was at firſt treated with ſome ſhare of lenity, but afterwards with all the ignominy and cruelty deſcribed by his Hon. Friend. From this detail he conceived the injuſtice and cruelty which M. de la Fayette had experienced would be manifeſt to every Gentleman preſent. The Colonel ſaid, he would next deſire the Houſe to conſider the impolicy of ſuch conduct; a conduct that could find no parallel in any of the hiſtories of the reigns of the moſt cruel and cold-blooded tyrants: And he hoped, that at a time when we were treating with Pruſſia, poſſibly for the purpoſe of parting with our treaſure, that we would interfere, and endeavour to reſcue M. de la Fayette from thoſe hardſhips and horrors, which he had unmeritedly been doomed to ſuffer; and that his Majeſty's miniſters would loſe no time *to wipe away the ſtains that blurred the ermine of Majeſty.* He could, from his *perſonal knowledge* of the unfortunate General during his reſidence at Paris, ſay much of his virtues, his integrity, his attachment to the cauſe of true and temperate liberty, his tenderneſs to his wife and children, his univerſal benevolence, and his admiration of this country. He had neither countenanced nor participated in the crimes of Danton or Robeſpierre, but ſupported his King, and fell a victim to the cauſe of royalty: But he too well knew the generous ſympathy of Britiſh boſoms towards unmerited ſufferings, to urge the matter more ſtrongly on their feelings upon this occaſion; he therefore contented himſelf with ſeconding the motion of his Hon. Friend upon the grounds he had already ſtated.

The Chancellor of the Exchequer ſaid, that, conſidering the circumſtances of the caſe that had been brought forward for diſcuſſion that night, he did not feel it neceſſary to conſume much of the time of the Houſe. From the view in which he conceived

the principles that they had eſpouſed, and the conduct that they had purſued, were, agreeable to the declaration of his Majeſty, entitled to his Majeſty's protection. He begged leave, however, to remind Gentlemen, that Lord Hood's declaration was addreſſed to thoſe perſons that might be diſpoſed to come as friends, and that might be willing to offer themſelves as ſupporters of the genuine cauſe of liberty. He would aſk any man, whether that was the caſe in the preſent inſtance? M. La Fayette, and thoſe who were along with him, did not come upon thoſe terms; they did not come as friends: So far from it, La Fayette, without any explanation, (the very man who a few days before was the commander of an hoſtile army!) came into the poſt of the enemy. There was no analogy in the preſent caſe. But, even admitting the principles to be the ſame, how did the caſe ſtand? The declaration was addreſſed to thoſe that might come and ſay, "Our country is at war with you: We do not wiſh to be at war with you: We are ready to ſupport the cauſe of our Monarch; to aſſiſt in the reſtoration of peace, and to cruſh anarchy: Under theſe circumſtances, and for thoſe conſiderations; we aſk your protection." Comparing thoſe two propoſitions, they were as different and as oppoſite as in the nature of things they poſſibly could be. On the ſimple ground of the impropriety of adopting the meaſure propoſed, which was ſo unuſual and ſo extraordinary, he would, therefore, reſt his oppoſition to the motion, conſidering the propoſed addreſs to be equally improper and unneceſſary.

Mr. Fox ſaid, when his Hon. Friend had ſubmitted the motion to the Houſe, he had little doubt in his own mind that it would have received the oppoſition which it had experienced. It was difficult to ſay, which was moſt extraordinary, that this country ſhould heſitate to interfere, or that the Court of Berlin ſhould exerciſe ſuch abominable tyranny and oppreſſion. That this country ſhould be thought unfit to apply to another for the exerciſe of juſtice or humanity, was a doctrine ſo ſtrange and ſo new, that the bare mention of it was ſufficient to expoſe the fallacy of the aſſertion. The Chancellor of the Exchequer, Mr. Fox ſaid, had ſeen ſo much difficulty in anſwering the particular arguments of a ſpeech on which he had juſtly beſtowed the praiſe of great eloquence and ability, as to feel it wiſe to oppoſe the motion on as general grounds as poſſible. The ſpeech of his Right Hon. Friend was not more remarkable for ability and eloquence, than for truth and ſolidity of argument. If ever there exiſted a man who, in a great and arduous ſituation, amid the conflict of opinions carried on all ſides to extremes, could claim the merit

rit of having ſteered a temperate and middle courſe, uninfluenced by the violence of the moment, and directed by free conceived opinions, that man was M. La Fayette. Of the treatment which he and his fellow-priſoners had experienced, and the pretext well known to have been alledged for continuing that treatment, *viz.* that they were the priſoners of the allied powers, not to interfere in their behalf, was to be implicated in the odium, and handed down to poſterity as the accomplices of the diabolical cruelty of the Pruſſian Cabinet. If in any point his Right Hon. Friend, who made the motion, had failed, it was in not painting that cruelty in colours ſufficiently ſtrong. How were theſe unfortunate gentlemen confined? In ſeparate apartments, that they might not enjoy even the ſad and the melancholy conſolation of communicating their ſorrows to one another. Suffered only to breathe the freſh air for one hour in the day, confined in ſubterraneous caverns, in which the only light came from a confined and dreary court, where the execution of malefactors, or other priſoners, were the ſole ſpectacles: This he knew to be a fact as much as a man could know any thing which he did not immediately witneſs, and he would take upon him to aſſert, that it happened ſpecifically at Magdebourg. Yet even this condition was capable of being aggravated. Though debarred from communication with one another, they had at one time the ſatisfaction of knowing that they were all within the walls of the ſame priſon. Two of them were, however, left at Magdebourg, and two carried to other places. So ſeverely was this felt, that M. La Fayette implored it as a boon of the King of Pruſſia, that M. Latour Maubourg might remain in the ſame priſon with him; but this boon, poor as it was, was denied him.

It had been aſked, what we were to do in ſuch a caſe? He maintained that the cuſtoms of civilized nations preſented no obſtacle to our interpoſition. In the caſe of Sir Charles Aſgill, private applications were made, from this country to a Court with which we were then at war. The good offices of the Queen of France were ſolicited; they were graciouſly granted, and proved effectual. America, the ally of France, yielded to an interpoſition in behalf of humanity; and what prevented his Majeſty from employing his good offices in the cauſe of humanity alſo, eſpecially with an ally, on whom he had ſo ſtrong a claim for attention? But if no ſuch inſtance were to be found, the nature of the war in which we were engaged, and the particular ſituation in which we were placed, might require and would juſtify a new mode of proceeding.

Was the ſort of treatment he had deſcribed, fit for him who (though he was not inclined to enter into encomiums upon any man, yet as far as he knew M. de la Fayette) was entitled, from his virtue and moderation, his patriotiſm and aſtoniſhing bravery, to a reſpect from the bittereſt enemy, that the compariſon of his excellent qualities or the exertions of his duty might create? If he was taken priſoner in war, he muſt be ſuppoſed to be a priſoner of war; and why were the ordinary privileges attendant upon that diſtinction denied him? Was he to ſuffer particularly, and in oppoſition to the uſual cuſtoms, from the elevation of his rank? If he was not to be conſidered as a priſoner of war, he muſt be deemed a priſoner of ſtate. How could this be reconciled? Had he combined with the internal enemies of the King of Pruſſia to overthrow the ruling power, and introduce the ſpirit of democracy into his kingdom? The applications of a Britiſh meſſage might carry more weight, and would reflect more honour upon the national character, than we were at preſent aware of. Had not the King of Pruſſia declared that M. La Fayette was the priſoner of the powers combined againſt France, and that he and his friends could not be releaſed but by the general conſent of thoſe powers? Did his Majeſty's miniſters not believe that this declaration had been made by the King of Pruſſia himſelf, and by his miniſters, to various perſons both publicly and privately? In anſwer to this, it was ſaid, that we were not engaged in the confederacy againſt France at the time when thoſe unfortunate gentlemen were made priſoners. By this declaration, however, from which we were not excepted, part of the odium was thrown upon us: And there was no way for the Combined Powers to clear themſelves from it, but by each of them declaring that they diſavowed the whole proceeding. The miniſters had, indeed, ſaid that we were not parties to it; but this was not enough, there ought to be an authentic declaration by the King; to which every Engliſhman might refer, in any part of the world, and clear the character of his country from ſo foul a reproach.

If the national honour demanded this, it was equally called for by policy. We had offered friendſhip and protection to all the well-diſpoſed French, who ſhould declare in favour of monarchy; and to the people of Toulon we had granted that protection as far as we were able, on condition of their declaring for monarchy, as limited by the conſtitution of 1789.

The Chancellor of the Exchequer had denied that La Fayette was in the ſame ſituation with thoſe to whom friendſhip and protection had been offered; but, by every fair and candid inference,

ference, he muſt clearly be allowed to ſtand in that ſituation. If we had promiſed, and actually given, protection to thoſe who declared for the conſtitution of 1789, muſt it not follow in the mind of every man, not a caviller, that the perſons who had ſupported that conſtitution, at the hazard of all that was dear to them, were to be protected alſo? If M. La Fayette, inſtead of being buried in a Pruſſian dungeon, had been, like many others, concealed in France, and had come forward on the proclamations at Toulon, could we then have refuſed him protection? If he had even been in a French priſon, within the reach of our force at Toulon, and had ſolicited his releaſe, could we have refuſed attempting to releaſe him, even at ſome riſk, ſuppoſing the attempt to have been conſiſtent with military prudence? In the name of common ſenſe, then, why refuſe at this time to make a much eaſier and more ſafe effort in his favour? All the general reaſons alledged againſt it, admitting them to their full extent, ought to yield to the ſtrong claim of humanity. Theſe reaſons muſt neceſſarily reſt on the general policy with reſpect to the war, and of that could there be a doubt? Had not the impriſonment of La Fayette and his friends, prevented many from joining the ſtandard of royalty, which we wiſhed to rear in France? It was improper to mention names; but he knew many, and miniſters he was ſure muſt know many more. Without entering into detail, the very reaſon of the thing muſt ſhew, that when Frenchmen were balancing in their minds, between declaring for the allies, or joining the ruling party, the fate of La Fayette muſt operate ſo far as almoſt to decide their choice. Did miniſters any longer entertain the hope of conquering France, or eſtabliſhing any particular form of government in it, but by the aſſiſtance of Frenchmen? He knew the profeſſions they held out to Frenchmen, *viz.* that all who repaired to the ſtandard of monarchy were to be protected; and that monarchy being reeſtabliſhed, they were to be left to temper it with ſuch modifications as they ſhould think fit. Of all the forms of monarchical government, did miniſters mean to preſcribe excluſively that of 1789? If they did, why had they not ſaid ſo? Why had they given ground for believing the contrary? Frenchmen, in this caſe, muſt ſuppoſe either that our declarations were all as faithleſs as thoſe of the King of Pruſſia and the Prince of Saxe Cobourg, or that our allies thought differently from us; that all the ſupporters of limited monarchy were to be proſcribed, and the advocates of unlimited monarchy only protected. Was this latter form of government now ſo popular in France, that any conſiderable party could be formed for it, or was it avowed to be a favourite with us?

Miniſters knew, that wherever they had found the means of communication with the people remaining in France, the old ſyſtem of government was an object of univerſal deteſtation and abhorrence; and that, even after Lord Hood was in poſſeſſion of Toulon, and Louis XVII. proclaimed, it was with great difficulty that the people were prevailed upon to lay aſide their National cockades, and to ſubſtitute the white for the three-coloured flag. The impriſonment of M. La Fayette and his friends, was therefore injurious to the ſucceſs of the war in which we were engaged; and, as parties in that war, we had as indiſputable a right to adviſe our allies reſpecting every thing that tended to promote or impede the common cauſe, as to conſult with them on the conduct and plan of military operations. In this point of view, Mr. Fox contended that the caſe of M. La Fayette could not be viewed with indifference, and that we were juſtified on every principle, by which the intercourſe of independent nations was regulated, in the application propoſed.

The mode in which M. de la Fayette and his friends were taken, was a point which ought to be fully conſidered; and having it in his power to ſtate diſtinctly the circumſtances, he ſhould trouble the Houſe with a recital. Thoſe four unfortunate gentlemen, whoſe melancholy fate was under diſcuſſion, with their attendants, to the number of forty, met a few men in a neutral ſtate, who, in point of number, were ſo much inferior, that any idea of apprehenſion from force was out of the queſtion. They ſent to the Governor of the town to know whether they could have permiſſion to paſs through that town to Holland, and they were anſwered in the affirmative. It was by this conſummate and direct *treachery*, this villainous breach of faith, that theſe unfortunate men were trepanned into captivity; and the purſuance of the conduct had been carried on with the ſame injuſtice as it was begun; infamous and diabolical in the commencement, and aggravated by the execution in the continuance.

If it was ſaid that they were taken as priſoners of war, they muſt, in that caſe, be conſidered as all equally priſoners of war, and ought to have been treated as ſuch. Had they been ſo conſidered? By no means: All of them, except four, had been releaſed; and this not by any diſtinction founded on military rank, thoſe only being detained who had been Members of the National Aſſembly. The rules of civilized nations allowed their parole to priſoners of war; but the Pruſſian miniſters, feeling the degradation into which they had brought themſelves in the eyes of Europe, pretended that they were not priſoners of war, but called them priſoners of ſtate. Could

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any man point out the part of the law of nations by which the ſubjects of one independent nation could be made priſoners of ſtate by the ſovereign of another, for offences committed, or ſuppoſed to be committed, in their own country? It could be done by no law, but the law of tyrants, which contemns all principles, human and divine; law directed only by the will of man, which, when adopted as a rule of action, too ſurely degenerates into tyranny. The Biſhop of Liege, on whoſe territory they were ſtopped, it was ſaid, had a right to claim them by the law of nations. They who ſaid ſo, knew that the Biſhop of Liege, though he had the right, had not the power, and therefore it was ſo much the more incumbent upon us to interfere. From views of policy it was requiſite that the meaſure propoſed by the motion ſhould be promoted. If the miniſter had any hopes of accompliſhing his end by means of the Royaliſts, would it not be for the national benefit to have that man releaſed, whoſe aid and abilities might co-operate to attain ſuch an object? Had it been effected long ago, it might have produced the moſt ſalutary conſequences; and the capture of Toulon, aided by his operations, might conſiderably have advanced the views of the allies previous to the period that it happened,

If any man thought the impriſonment of theſe unfortunate gentlemen was no injury to the common cauſe of the allies, that it was not a ſtain on the national character, or that it was likely to gain us converts among the French, he might vote againſt the motion. Thoſe who ſaw in it the reverſe of all this, muſt give it their ſupport. Unleſs it were ſaid that miniſters had already applied to the Court of Pruſſia, or meant to apply, he could ſee no reaſon for poſtponing the motion. The three gentlemen included in the motion with M. La Fayette, had all ſupported the limited monarchy. Of a man ſo well known as Alexander Lameth, it was unneceſſary to ſpeak. M. Latour Maubourg, on the return of the Royal Family from Varennes, had ſo conducted himſelf towards them as to be mentioned with particular expreſſions of gratitude; and M. De Puzy was known to be ſo acceptable to Louis XVI. that he was always ſelected as the perſon to communicate with him on matters relating to adjuſting the government. There was one circumſtance, Mr. Fox ſaid, which he was aware had hurt M. de la Fayette in the public opinion. He had been accuſed of having inſtigated the Royal Family to eſcape, of having been privy to their flight, and having afterwards betrayed them, and cauſed them to be arreſted at Varennes. If this circumſtance were founded in fact, moſt certainly no odium could be too great, no obloquy could attach

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a ſufficiently juſt reprehenſion for ſo horrible a piece of duplicity; but the proof of his innocence was ſo incontrovertible, ſo poſitive and direct, that the mention of it muſt ſtamp an indelible impreſſion on the mind of every man, and clear him entirely from ſo foul a calumny. The witneſs of his innocence was the unfortunate and ever-to-be-lamented Queen, Marie Antoinette, who, when upon her trial, and when ſhe knew her own fate to be inevitable, was aſked whether Fayette had connived at their eſcape? and anſwered poſitively, that he was totally ignorant of it. If this convincing teſtimony ſhould not be ſufficient, the mind muſt be confuſed indeed to deſire ſtronger evidence, or evidence that could give more internal ſatisfaction! Upon the whole, the queſtion reſolved itſelf into this ſimple and narrow conſideration: Thoſe who think the treatment of theſe unfortunate gentlemen no injury to the common cauſe, would vote againſt the preſent motion: On the contrary, thoſe who ſaw in theſe cruelties a violation of every principle of juſtice, humanity, and prudence, would give it their ſupport. If miniſtry have done any thing on the ſubject, then they would only have to conſider whether what was done was rightly done; if they meant to interfere, then it would be proper to wait; but if neither of theſe was the caſe, it behoved that Houſe to conſider whether they were not called on to conſult their own feelings, and endeavour, by an honourable interference, to promote the ſucceſs of that cauſe which they profeſſed to ſupport. Upon theſe grounds he declared his aſſent to the motion of his Hon. Friend.

Mr. Burke declared it to be his opinion, that when there were no precedents on the books, no circumſtance ſimilar to the preſent, the Houſe ought to be extremely cautious in departing from the policy of their anceſtors. They ſaw before them, within a ſhort ſpace of time, the fall of a great monarchy, the deſtruction of numbers, and the impriſonment of 200,000 perſons. He was glad to remark, from what had fallen from ſome Gentlemen in the courſe of the preſent debate, that they were now convinced of the danger of thoſe principles of univerſal but fictitious benevolence which forbade any interference in the affairs of a foreign ſtate, or the conduct of a ſovereign independent power. Having, however, never adopted thoſe principles, he had no difficulty in declaring, that if a proper caſe of interpoſition was eſtabliſhed, it would be perfectly conſiſtent with the honour and dignity of this country to interpoſe; but it could not be contended that the caſe of M. de la Fayette was of that complexion, when we had not deemed it requiſite ſo to do for the purpoſe of

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preventing the numberleſs maſſacres, murders, and revolutions, by which France had been deſolated and deſtroyed. He conſidered the Hon. Gentleman, who brought forward the motion, as actuated by generous motives: *Tantum infelicem nimium dilexit amicum.* That Houſe, Mr. Burke ſaid, would be ſtepping out of its way to pay attention to ſuch a perſon as M. La Fayette, at a time when ſo many other objects of pity paſſed before their view. When Priam was left naked on the ſhore: When Hecuba was dragged from priſon to priſon, treated with unparalleled turpitude and baſeneſs, and at length barbarouſly murdered: When we were to look at the calamitous ſituations of virtuous and reſpectable characters, and of matrons, in whoſe houſes we had once been hoſpitably treated; and, above all, when La Fayette might be conſidered the origin and the author of all theſe calamities, he thought that *illuſtrious exile*, as he was called, though, in fact, the outcaſt of the world, deſerved the fate he had met with. Only one example of any ſuch interference had been adduced, the caſe of the interpoſition of the late Court of France, which was now ſo frequently denominated deſpotic and tyrannical, in favour of Sir Charles Aſgill; an interpoſition which was chiefly rendered effectual by the exertions of the late unfortunate Queen, who, in the exerciſe of her power, had ever diſplayed the utmoſt benevolence and benignity, and whoſe firmneſs, intrepidity, and reſolution, in meeting her fate, would form an everlaſting contraſt to the tyranny, cruelty, and baſeneſs of thoſe by whom ſhe was murdered.

Mr. Burke adverted to the ſtate of the priſons in France, and particularly at Paris; and obſerved that there were upwards of 6000 priſoners, men, women, and children, lying on ſtraw, and periſhing for want of the neceſſaries of life. Theſe unfortunate perſons had been guilty of no crime. La Fayette, he contended, was the principal author of all their misfortunes, and of all the misfortunes that had befallen France; and, therefore, however much other Gentlemen might pity him, Mr. Burke ſaid, he certainly was not the object of his compaſſion. Inſtead of lamenting the condition of that man, he mourned over thoſe crowds of truly illuſtrious exiles who were wandering over Europe, and to ſupport whom the charity of the Public was every-where taxed; exiles, who, deprived by him, in the firſt inſtance, of their titles, were robbed of "*that which not enriched him, and left them poor indeed!*"

While theſe nobles were in this ſituation, ſtripped of that conſciouſneſs of rank which was the laſt conſolation of the unfortunate, they were called upon to paſs all theſe over with neglect, and turn their whole attention to Citizen Fayette!

This

dered; it was he who tore out and devoured his heart." "I would not," concluded Mr. Burke, "debauch my humanity by ſupporting an application like the preſent, for ſuch a horid ruffian."

Mr. Grey ſaid, he had never heard a ſpeech with more pain than that of the Right Honourable Gentleman who had juſt ſat down. His reſpect for the Right Honourable Gentleman's character and abilities, as well as for the dignity of the Houſe, made him extremely ſorry that ſubjects of ſo ſerious and important a nature, ſhould be treated in the manner in which that Gentleman had thought fit to treat the queſtion. He regretted that the Right Honourable Gentleman could not, upon any occaſion of late, diveſt himſelf of that indulgence in invective, which he had exerciſed ſo much, whenever he could make France, or any thing connected with France, the ſubject of it. He was concerned for his common humanity, and, under theſe impreſſions, he declared, he muſt reprobate the levity of treating with ridicule or lightneſs, the cauſes of men who were groaning under affliction. Having the honour of being engaged in a common cauſe with him, he could not avoid contraſting his preſent conduct with what he had never before known him to be capable of.—The adding inſult to injury was too diſtreſſing; and he was the laſt man whom he could have ſuppoſed capable of this conduct.

After the long and deſultory harangue, which from the beginning of the Right Honourable Gentleman's ſpeech had conſiſted of nothing but a violent invective, ſome part ſerious, and other parts conſiſting of levity, but ill adapted to the magnitude of the object, Mr. Grey ſaid, he ſhould not trouble the Houſe long, but he could not ſuppreſs his ſentiments, and he muſt truſt to the indulgence of the Houſe for the mode of his expreſſion. He denied that ſuch an interference as that propoſed by his Right Honourable Friend was in any way admitting a right to interfere in the internal government of another country: On the other hand, he conſidered this country as bound by every tie of honour, humanity, and juſtice, to do all in her power to procure the releaſe of General La Fayette from the moſt unheard-of, oppreſſive, and tyrannical uſage, that had ever ſtained the hiſtory of the moſt deſpotic times; and were we to neglect interfering to the utmoſt of our power, he ſhould think himſelf warranted to ſay that it was giving a deep and permanent wound to the confederacy in which we were engaged.

It was not the individual character of M. de la Fayette which called for the interference of the nations. Inſtead of indulging his ſpleen with ſtrictures upon an unfortunate man,

who was unable from the tyranny of others to vindicate himſelf, the Right Honourable Gentleman might have learned this leſſon, that for the purpoſe of extricating the national character from aſperſions which attack her in common with other nations, this kingdom was induced to exonerate herſelf, and endeavour to clear up the darkneſs which was caſt upon the reputation of others.

Among the numerous and unfortunate inſtances which the Right Honourable Gentleman mentioned, was one in which he had ſaid, that this gentleman had given up the Abbé Foulon and his brother to the mercy of the rabble, who committed the dreadful purpoſe which was ſo much to be lamented. If, indeed, the caſe were ſo, it were much to be lamented; but the circumſtance was ſo unlike the general character of the man, that he muſt have better authority than his, before he could give any implicit confidence to it. Was it a crime in M. Fayette not to have been able to reſtrain the fury of the Pariſian mob? An Engliſh mob had committed ſimilar outrages a little better than two years ago, and no perſon was charged with not having been active in preventing it. It might have happened thus with M. La Fayette.

If ever juſtice and humanity were violated, it was in the inſtance of the treatment of M. de la Fayette. It was therefore a cauſe for our interference; and we ſhould gain by it an exemption from ſuſpicion, as long as he ſhould remain in cuſtody. It might inform us of the objects of the war, which were not expreſsly declared by the manifeſto of the King. Mr. Grey ſaid, he would put the queſtion to the miniſter, Did he believe that he could find a ſufficient number of Frenchmen who would be willing to aſſiſt in eſtabliſhing the old conſtitution, that unqualified ſyſtem of tyranny? As to the proclamation made at Toulon, he would maintain that it was an engagement on the part of this country, to give the French the conſtitution of 1789; although the Honourable Gentleman (Mr. Burke) had uſed a very indecent compariſon to prove that no conſtitution could be given to the people of that town. He would deſire that Lord Hood's proclamation might be examined, and there it would appear that his Lordſhip had pledged the faith of the Britiſh nation to ſupport that conſtitution, which they inſiſted on obtaining before they would ſurrender the town. Was that the caſe? If he had not been very much miſinformed, though he had reaſon to believe the authenticity, we had acted as barbarouſly, after we had got poſſeſſion of that harbour, as the republicans had acted, before we entered. The *guillotine* had been as active as in any other part of

France; but our declaration promiſed, that this conſtitution of 1789 ſhould not only be kept up while we were there, but alſo that it ſhould be firmly eſtabliſhed, and rendered permanent. Can the Gentleman aſk what claim La Fayette has now upon the King of Great Britain, when thoſe circumſtances are maturely weighed? Are not our intereſts deeply involved? Are we not engaged as principals in this war? And will there not, upon ſuch an elucidation, be a perfect underſtanding of intereſts?

If the King of Pruſſia ſhould iſſue a declaration, as we have done, to endeavour to eſtabliſh the old conſtitution, or any other manifeſto, for the purpoſe of ſeconding his own views, would not the miniſter of this country be perfectly juſtifiable in making a ſeparate peace, conſiſtently with the declaration of maintaining the conſtitution of 1789? How then can we heſitate to interfere in the fate of this very man, who has been the grand operator, and in part the inventor of that very conſtitution which we are ſo anxious to eſtabliſh?

The Right Honourable Gentleman had ſaid, that if M. de la Fayette returned to France, he would be treated as a traitor; moſt ſincerely did he think ſo. This he conſidered as an eulogium upon his character, inſtead of a ſtigma. He was no friend to the anarchy that at preſent reigns there, but the framer of the plan propoſed to them by us. In theſe conſiderations, and the exacting an explicit declaration from the King of Pruſſia, the policy of the meaſure was evident; and it became the duty of every man, from the leſſons which this eventful period had taught us, not to ſuffer governments to grow debaſed: By want of ſtrict caution and guard upon their conduct, individual ſecurity was deſtroyed, and the foundations were reverſed.

The Chancellor of the Exchequer ſaid, that Lord Hood, when he ſaw, on the part of the people of Toulon, a diſpoſition to communicate with him, had told them, that if they would make a candid and explicit declaration in favour of royalty, he would afford them aſſiſtance and protection. They declared in favour of monarchy as eſtabliſhed by the conſtitution of 1789, and begged that he would take poſſeſſion of the place in truſt for Louis XVII. He did ſo; and to reſtore the place at the concluſion of the war to Louis XVII. was the extent of the engagement into which Lord Hood had entered.

Mr. Fox declared, that he conceived the fact to have been exactly as the Chancellor of the Exchequer had ſtated it, which did not alter the circumſtance, that this country had bound itſelf to what had been deſcribed by his Hon. Friend.

Mr.

Mr. R. Thornton ſaid, he neither agreed with thoſe who repreſented M. La Fayette as the cauſe of all the evils that had befallen France, nor with thoſe who held him up as a great character. But he thought it was for the honour and the intereſt of the nation, that we ſhould interpoſe for his releaſe; and he knew of no better mode of doing it than that now propoſed. It was not unprecedented; for the Houſe had agreed to interpoſe in behalf of the late King of France, although we had no alliance with France at that time. The conduct of the Court of Berlin he could not help conſidering as unmilitary and unmanly.

Mr. William Smith ſaid, that he was impelled to lay in his claims to argue againſt our interference with the internal government of France. We were actually falling into ſuch error by ſuffering La Fayette to be puniſhed for the part which he had taken in the revolution of France. It gave him, he ſaid, deep concern, to find, that in the lapſe of five years, nothing had occurred in a country ſtruggling for its freedom, that could induce the nation, the moſt free in the world, to interfere in its behalf. Had that been the caſe, probably thoſe crimes which had been imputed to the French never would have been perpetrated. He concluded by declaring that this country will ſuffer ſeverely if the preſent motion were not carried.

Mr. Ryder ſaid, the interference mentioned by Mr. Thornton had never taken place. When Gentlemen held up La Fayette as a great character, they did ſo either to conciliate the favour of the Houſe, or to recall approbation of that ſyſtem which M. de la Fayette had ſupported. Of the treatment La Fayette had received he would give no opinion; but although we promiſed protection to thoſe who declared for the conſtitution of 1789, in order to obtain allies, it did not follow that we were bound to protect the authors of that conſtitution; and therefore he ſhould vote againſt the motion.

Mr. R. Thornton ſaid, the inſtance he had mentioned was exactly in point: The Houſe was unanimous with reſpect to the meaſure itſelf, and dropped it only on the conſideration that to carry it into full effect might injure the cauſe it was meant to ſerve; and that all the good expected from it would be obtained by its being publicly known that the Houſe had been unanimous.

Mr. Burke ſaid, he ſpoke not of La Fayette's character, but of his actions.

The Solicitor General ſaid, that the character of La Fayette and the humanity of the Houſe were entirely out of the queſtion,

tion, which muſt be decided on grounds of policy only. If we were to interpoſe in this inſtance, we muſt interpoſe by the ſame rule in every inſtance, where the conduct of other powers violated humanity. He entered into ſome diſtinctions, to ſhew that although the conſtitution of 1789 had been mentioned at Toulon, we were pledged only to the reſtoration of monarchy in France.

Mr. J. S. Cocks ſaid, he could not ſuffer Mr. Smith's expreſſion of ſorrow, that our government had found nothing to approve in the beginning or progreſs of a ſyſtem, which had for its object the deſtruction of all comfort and public liberty, and which attempted alſo to deprive its wretched victims of the hopes of futurity, to paſs unnoticed. La Fayette's cruelty, in his opinion, was manifeſt, firſt, from his continuing to act under ſuch a ſyſtem; and the proofs of it were as clear as could be expected under ſuch circumſtances.

Mr. Fox ſaid, he had ſeen many emigrants at Brighton, who were at Paris when Foulon and Berthier were murdered; their concurring teſtimony was, that M. La Fayette did all he could to prevent it; and they alledged as a reaſon for abandoning their country, that he was not able to prevent ſuch dreadful outrages.

Mr. Smith ſaid, it was impoſſible that Mr. Cocks could have put ſuch a conſtruction upon his words, if he had taken the trouble to attend to them.

Mr. Jenkinſon ſaid, he was at Paris at the period alluded to, and the general impreſſion was, that although La Fayette was not acceſſary to the murders of Foulon and Berthier, he had not done all he might have done to prevent them. One of them was brought from the country by a more numerous armed party than it was ſuppoſed could have been employed without La Fayette's knowledge; and they had put ſtraw into his mouth on account of ſomething he had ſaid of a famine about fourteen years before (that if the people wanted bread they might feed on ſtraw).

Mr. Burke ſaid, he had the authority of the Abbé Foulon, a member of the Parliament of Paris, for charging La Fayette with the murder of his father and M Berthier; and this authority was corroborated by various other well-inveſtigated proofs.

Mr. Martin returned thanks to the Gentleman who had brought forward the motion, as it gave him an opportunity of demonſtrating his abhorrence of the confinement of this unfortunate gentleman. He declared that his ſevere puniſhment was the converſation of all parties throughout the country; and

and he truſted that the Houſe would vote for the motion; not leſs through motives of mercy and humanity, than through motives of ſound policy.

Mr. Stanley declared, that he was in Paris at the time adverted to by ſeveral Gentlemen who had ſpoke. He muſt, in juſtice to the unfortunate La Fayette, declare, that he not only did every thing in his power to prevent the circumſtances that had happened, but riſqued alſo his own perſonal ſafety. He would therefore vote for the motion.

Mr. Eaſt ſaid, the motion, if agreed to, would be to charge the executive power of another nation with cruelty, and would probably riſk the loſs of an ally. We were not bound to inſtruct other ſtates in the law of nations. He could not concur in the panegyric on La Fayette, who had been the firſt to publiſh, that inſurrection was the moſt ſacred of duties, and had reduced the power of his Sovereign to a mere ſhadow. He would never give a vote that tended to throw diſcredit on the war, on the ſucceſs of which our all was at ſtake.

Mr. Courtenay inſiſted, that, inſtead of giving offence to the King of Pruſſia, he would be pleaſed to have this country interpoſe for the liberation of his priſoner. He had diſclaimed wiſhing to keep him in confinement, and did it merely to pleaſe the confederates. He thought therefore this country would do the King of Pruſſia a favour in removing him from the ſituation of a royal gaoler. It was wonderful we did not feel the ſame delicacy and the ſame dread of giving offence to all the neutral nations; to Denmark, Sweden, Genoa, &c.

All the evils in France were declared by an Hon. Gentleman to have originated with M. Fayette; although the moſt of them had taken place ſince he left that country. It might as well be ſaid that Hambden was the author of all the misfortunes that happened in England after his time; and becauſe a furious Pariſian mob, in ſpite of M. de la Fayette's remonſtrances, had committed ſeveral exceſſes, he was charged with them all. Juſt with as much truth and propriety might his Majeſty's miniſters, and Lord Amherſt, the then commander in chief, be accuſed of committing the riots that happened here in the year 1780. Notwithſtanding theſe crimes of La Fayette, in ſtirring up mobs, the virtuous Marat and Robeſpiere denounced him for having fired on the people. The teſtimony of the Queen of France was a high eulogium on him, and did away every calumny.

The French revolution, which Fayette was charged with having brought about, was a circumſtance that afforded univerſal pleaſure; and, at the taking of the Baſtile, he and an Honourable Gentleman near him (Mr. Burke) were then in Paris,

Paris, and his Honourable Friend declared he was highly pleaſed with that event. It was now the faſhion to reprobate every thing that ſounded like liberty, and to attribute to it every thing criminal; while every act of deſpots was admired and extolled, juſt as if Kings and the Lord's anointed alone had an excluſive privilege or patent to commit crimes.

Mr. Courtenay declared, that he conſidered democratic inſurrections to be uſeful: From the nature of things they could laſt but a ſhort time, and, like hurricanes and thunder-ſtorms, they cleared the ſtagnant atmoſphere; and he would rather be toſſed about in the wildeſt blaſts and tempeſts of democracy, than breathe for an hour the ſtill and peſtilential breath of regal deſpotiſm.

Mr. Whitbread, jun. ſaid, that all our proceedings at Toulon were calculated to give the French people the impreſſion that we were deſirous of eſtabliſhing the conſtitution of 1789 only, and this was confirmed by the declaration of Langara at Toulon, which announced to the French, that the conſtitution of 1789 was in full activity at Toulon, and therefore inviting the friends of that conſtitution, from the example of this place, to confide in the combined powers. What then could be ſaid in defence of that ſcandalous treatment of M. La Fayette and his aſſociates, whoſe efforts had all been exerted for that conſtitution which was offered to the French? He moſt warmly approved of the motion which had been made by his Right Honourable Friend with ſo much generoſity, candour, and eloquence. He thought that the conduct of our ally the King of Pruſſia to M. La Fayette would rouſe the indignation of every manly breaſt; and it was a melancholy reflection that even with this conduct before us, we could only engage his continuance in the war by paying him a ſubſidy. It was however material to the Houſe to know what this ſubſidy was to be: The Right Honourable Gentleman, when the queſtion was put to him on a former night, had not denied the fact, though he had choſen to withhold all explanation from the Houſe on the ſubject. He truſted, however, that this ſubſidiary treaty would be laid upon the table as ſoon as it ſhould be concluded, and not withheld as the treaties were laſt year, till the two or three laſt days of the ſeſſion.

The Chancellor of the Exchequer ſaid, that when called upon to ſay whether a negotiation was not going on for a ſubſidiary treaty with the Court of Berlin, he had thought it his duty to remain ſilent.—The Hon. Gentleman, however, had choſen to conſtrue this ſilence into an acknowledgment that ſuch treaty was not only in negotiation, but actually concluded. He would not however depart from his ſilence. He would juſt ſay, in anſwer to the obſervation of the Honourable Gentleman,

tleman, "That if it ſhould be thought right, for the more vigorous "profecution of the war in which we were engaged, to adviſe "his Majeſty to enter into further treaties of ſubſidation with "the powers of Europe, he certainly ſhould conſider it as his "duty to make an early communication of ſuch treaties to "Parliament."

The Houſe divided upon General Fitzpatrick's motion; when there appeared,

Ayes 46—*Noes* 153——*Majority* 107.

Adjourned.

HOUSE OF LORDS.

TUESDAY, *March* 18.

The Marquis of Downſhire took the oaths and his ſeat.

Mr. Hobart, and other Members from the Commons, brought up the Penny-poſt and ſeveral Private Bills. The Bill for aboliſhing the Slave Trade was ordered to be printed.

TREATIES.

The Earl of Guildford roſe, in purſuance of the notice he had given, to call their Lordſhips' attention to a ſubject of great national importance, *viz.* the Treaties entered into by this Country with Foreign Powers; and in order to proceed regularly, he would firſt deſire that they might be read. The titles of the ſeveral treaties on the table were then read, and are as follow: The Treaty for the Extenſion of Commerce between the Empreſs of Ruſſia and his Majeſty; the Treaty of Alliance with the Empreſs; the Treaty with the Landgrave of Heſſe Caſſel, for ſubſidizing 8000 of his troops; a ſecond Treaty with the Landgrave, for ſupplying his Majeſty with an additional corps of 4000 men; a Treaty with the King of Sardinia; a Treaty with the King of Spain; a Treaty with his Sicilian Majeſty; a Treaty with the King of Pruſſia; a Treaty with the Emperor of Germany; a Treaty with the Margrave of Baden, for ſubſidizing 754 of his troops; a Treaty with the Queen of Portugal; and a Treaty with the Landgrave of Heſſe Darmſtadt, for ſubſidizing a corps of 3000 men. Before he entered upon the merits of his motion, the Earl ſaid, he would ſtate his reaſons for bringing it forward, and troubling their Lordſhips on the ſubject. In a late debate he had been much alarmed to hear Noble Lords (the Duke of Portland and Earl Spencer), to whoſe opinion great deference was due, as coming from men to whoſe attachment to civil liberty and the conſtitution he was ready to bear teſtimony, reſt a main part of their argument in ſupport of their voting againſt the

motion of a Noble Earl near him (the Earl of Albemarle), on the treaties on the table; and one of the two Noble Lords in queſtion had laid peculiar ſtreſs on its being ſpecified in the treaty with the Landgrave of Heſſe, in what manner and in what proportion his troops were to be paid, ſhould there be occaſion to bring them into this kingdom. He could not admit that to be any argument in favour of the prerogative of the Crown, exerciſed in a manner the moſt alarming to the jealouſy of Parliament, and eſpecially of that Houſe, as it was not only their Lordſhips' undoubted right and privilege, but their bounden duty, at all times, and under any circumſtances, as hereditary adviſers of the Crown, to examine every treaty entered into by his Majeſty, and to declare their opinions upon the ſame. If ſuch an argument meant any thing, it muſt be under the ſuppoſition that it had been ſtated to Parliament previouſly, either that the troops were on their paſſage, or that they had landed, and that Parliament had given its conſent to their being kept in the kingdom. He truſted that he ſhould not hear on that night, any perſon contend, that it was not the province of that Houſe to examine into the preſent ſubject. If he was to ſay that it was a branch of the Royal prerogative, with which we had no right to interfere, he muſt be prepared to combat the latter with the ſpirit and the practice of the Britiſh conſtitution; a proper regard for which made it his duty to bring forward the motion which he ſhould have the honour to ſubmit. There was no one prerogative of the Crown to which that Houſe were ſo much bound to attend, and give their advice upon, as that by which the King had a right to make peace and war. Under this conſideration came all treaties and negotiations which had a tendency to produce either the one or the other, and with this view it was that he had called the attention of the Houſe to thoſe on the table. He contended that they had a right to adviſe his Majeſty not to enter into treaties that might endanger the ſafety or tranquillity of the country.

Differing as he did with the majority of the Houſe on the ſubject of the preſent war, it was natural to ſuppoſe that he was no friend to the treaties on the table, which were defended by thoſe who contended for the juſtice and policy of that war. Any diſcuſſion, however, on that laſt particular, he had no intention to enter upon that day; he would confine what he had to ſay to the treaties merely. The points he wiſhed to eſtabliſh were theſe: That the obvious tendency of our engagements was to ſupport and forward the unjuſt and romantic views of other European powers to conquer France; that they were in no reſpect favourable to the real intereſts of this country; and

that they had been entered into upon principles that the King's miniſters had previouſly and repeatedly diſavowed. In anſwering theſe, it became neceſſary for a moment to recur to the opinions univerſally held in and out of Parliament upon the propriety of our remaining neutral as to the diſturbances in France two years ago; that neutrality had then been thought by every man, who conſidered at all, the wiſeſt and beſt policy that this country could poſſibly follow; it afforded general ſatisfaction while it laſted, for no one ſuppoſed that we ſhould ever be raſh enough to interfere ſo far in the internal affairs of another country, as to dictate a government for a great and independent people. All of a ſudden things take a new turn, and we find ourſelves deeply involved in the war, and acting as principals in a conteſt in which we have little or no concern. That our interference was not for the intereſts of the country, he believed few would deny; and that it was againſt the opinion of the King's miniſters, avowed at the time by them, and approved by all, would appear from their own conduct. So little did they think we had any thing to do with thoſe diſturbances, that the failures that took place after the Duke of Brunſwick's firſt manifeſto, the French getting poſſeſſion of Savoy, and the capture of Mentz, appeared by their conduct to be conſidered by them as matters of perfect indifference. The change, therefore, that had taken place, and which occaſioned our interference, firſt by an armament which forced a declaration from France, and afterwards created thoſe engagements which led us into the war, muſt ariſe from a total change of ſyſtem and views, and a ſubverſion of that neutrality which would have been, what it was at firſt thought to be, the wiſeſt, the beſt, and the moſt honourable part for this country to have acted.

Upon a reference to the Journals, his Lordſhip ſaid, he found numberleſs inſtances of the interference of Parliament, in a conſtitutional manner, reſpecting treaties. In ſome, that Houſe or the other had addreſſed his Majeſty, not to ſuffer treaties in negotiation to be concluded; and in others had proceeded on different grounds. He would begin with adverting to two treaties; the firſt the treaty of Utrecht; and the ſecond the treaty of Aix-la-Chapelle; in both which caſes the Houſe had entered into particular and diſtinct reſolutions. Previous to the treaty of Utrecht, Parliament addreſſed the Crown, deſiring her Majeſty, in the tenth year of Queen Anne, not to conclude a peace, while Spain was likely to devolve into the hands of a prince of the Houſe of Bourbon. Another treaty on which Parliament had founded a proceeding, was reſpecting the free navigation of the American ſeas.

His Lordſhip mentioned various other inſtances, and ſaid he had contented himſelf with ſtating the precedents without a comment, as it was ſufficient for his argument to ſhew merely that what he meant, before he ſat down, to offer to the conſideration of their Lordſhips, was not new in its nature, and therefore not improper to be brought forward. One branch of the prerogative which had been aſſerted to exiſt (but the exiſtence of which he poſitively denied), was the right of landing foreign troops in this kingdom; though it might not entirely deſtroy practical liberty, it inevitably defaced every veſtige of theoretical liberty in this country.

The treaties upon their Lordſhips' table might be claſſed under three heads; thoſe that were ſubſidiary—thoſe of a more general and fœderal nature—and laſtly, that anomalous one with the King of Sardinia, which bore no analogy or reſemblance to any that had taken place in diplomatic hiſtory. As to the firſt claſs, thoſe ſubſidiary with Heſſe Caſſel, Heſſe Darmſtadt, and the Landgrave of Baden, he confeſſed he had the leaſt objections, becauſe he thought ſubſidiary treaties, if a proper uſe was made of them, might be of eſſential ſervice, both in times of peace and war—in times of peace, becauſe they enabled us to leſſen our internal force, and thereby were a ſort of ſtanding army kept up without any of thoſe dangerous conſequences ſo much and ſo juſtly dreaded from keeping a ſtanding army in this country in times of peace, and at the entire will of the executive government—ſo much for them in times of peace. In times of war, the ſervice that may be made of them, if properly uſed, was obvious to every body; but he denied that in the preſent war a proper uſe had been made of any one of thoſe treaties on the table.

With regard to the ſecond claſs; The treaties with Pruſſia, Auſtria, Ruſſia, and Spain, they were certainly different in their complexion, and different in their object; though he believed each of thoſe Courts propoſed to itſelf a new and diſtinct object. He objected to theſe treaties ſtrongly, on account of the clauſes which they contained, binding us not to make peace but upon ſuch terms as were conſiſtent with the ambitious views of thoſe powers, and ſtill more from their nature reſpecting our conduct towards neutral powers. Had they contained a clauſe to prevent neutral powers from giving ſuch aid to France as might be dangerous to the contracting powers, they might, perhaps, be entitled to have been reckoned wiſe; but if that clauſe gave the confederate powers a right to act as they had done with regard to Sweden and Denmark, and in another way to Genoa, Tuſcany, and Switzerland, it would open a precedent for more tyrannical oppreſſion than had

had ever occurred in the moſt arbitrary times of the moſt deſpotic powers in Europe. With regard to the laſt, that moſt extraordinary treaty of all, the treaty with the King of Sardinia, which might be conſidered as a phenomenon in diplomatics, it was in every way new, unaccountable, and unprofitable; and it was impoſſible that any good could ever ariſe from it to this country. He was perfectly at a loſs with what deſcription of treaties it ought properly to be claſſed, and he was yet in doubt whether thoſe who ſigned it underſtood themſelves to what they had ſubſcribed their names, and could tell what was its true meaning. Upon the face of it we had ſtipulated to pay the King of Sardinia, confeſſedly a weak power, a ſubſidy of 200,000l. *per annum*, for keeping 50,000 men in arms to defend his own dominions. Did any man imagine that natural cauſes would not have produced this effect? Beſides the 200,000l. to be paid annually to the King of Sardinia to defend his own dominions, we were obliged to furniſh him with a fleet, which muſt conſiderably weaken our naval ſtrength at home; and what was worſt of all, we had bound ourſelves not to make peace till Savoy, and all the places he might loſe by a war with France, were again in his poſſeſſion. Was it not notorious that Savoy and Nice had been captured by the French, before we brought it neceſſary to laviſh away the public money in ſo uſeleſs a ſubſidy? Was it ſuppoſed that the King of Sardinia, from motives of ſelf-defence, would not have felt prompt and eager to protect himſelf? Reaſon was pointedly againſt the treaty with Sardinia, which bound us to engage for every thing, and receive nothing in exchange.

The Earl ſaid, he had no intention to enter at large into the grounds of the war, whether juſt or unjuſt, politic or impolitic; but he could not help ſaying, that the whole of the treaties into which we had entered, did not one of them ſeem directed to obtain that object for which we had profeſſed to have engaged in the war. Had the Noble Lord, who ſigned the treaty with Sardinia, ſuch an abject opinion of the activity of the Board of Admiralty, as to think that, upon a proper ſuggeſtion of the neceſſity of a fleet in the Mediterranean, they would not ſend it out, without the country being actually bound thereto by treaty?

With regard to the treaties with the other powers, we had acted upon a very impolitic plan, we had engaged ourſelves to continue in a war until all the territories which might be conquered from them ſhould be reſtored. Was there any neceſſity, in order to engage thoſe powers to permit us to ſubſidize one, to lend our arms and aſſiſtance in the common cauſe, in the caſe of others, to tie ourſelves down by particular treaty and engagement? The object for which we had affected to

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enter into the war, and the grounds which miniſters held out to the nation at large for engaging in it, he contended, had been totally neglected; in fact, the treaties were not more cenſurable for their contents than for their omiſſions, particularly with regard to the ſecurity of Holland. Was there any thing in the conduct of Ruſſia and Pruſſia in the partition of Poland, or the conduct of the Houſe of Auſtria in its late proceedings, that amounted to a guarantee for the future ſafety of the United Provinces, though Holland was the only power on the continent where liberty and independence were of any material conſequence to this country. He did not think it any proof of the ſagacity or foreſight of Adminiſtration to depend on the wild and chimerical politics of Joſeph II. for the protection of the frontier againſt France. The battle of Jemappe ſhould have taught them the dangerous conſequence of a diſmantled frontier.

He was aware, his Lordſhip ſaid, that the preſent proceeding might be aſſimilated to the attempt to diſſolve the general confederacy againſt Louis XIV.; but before the conduct of thoſe who thought with him ſhould be compared to the conduct of Lord Bolingbroke and his friends, it would be neceſſary to ſhew a ſimilitude between the confederacy of the preſent day againſt France, and that againſt Louis XIV. in the reign of Queen Anne. When we ſay the preſent is a confederacy, there the ſimilitude ends; the confederacy of that day was to prevent that deſpotic prince from too great an acquiſition of power; the object of the preſent confederacy was, to impoſe a government, by external force, upon an independent nation. As well might we compare the paltry ſucceſſes of the laſt campaign, to the brilliant victories of the Duke of Marlborough and Prince Eugene. His Lordſhip maintained the inutility of the ſeveral treaties in every point of view, and inſiſted on their inadequacy to obtain any real advantage to this country, repeatedly aſſerting, that the objects of the ſeveral allies were all of them eſſentially different. He read his motion, and ſaid, though it might be argued that it was no more than a propoſal to ſeparate ourſelves from the grand confederacy which had been formed in Europe, and that there never was but one precedent for ſuch a ſeparation, he inſiſted that the caſe was entirely different, and could not be ſo argued upon. We were then engaged to prevent the union of France with Spain, and check the ambitious views of the Houſe of Bourbon; whereas now we were buſily fighting their cauſe, and endeavouring to raiſe the drooping head of the Houſe of Bourbon, the *proper*, the *natural*, and the *ſteady* allies of the illuſtrious Houſe of Brunſwick! From the Proclamation of Lord Hood at Toulon, which ſtipulated for the con-

conſtitution of 1789, he contended that this was undeniably the fact; and from thence he inferred, that miniſters muſt have changed the object they meant to obtain by this war; or, at leaſt, it was fair to conclude, that it was widely different from thoſe arguments they held out to the people to induce them to enter into it. He concluded by moving the following Reſolution:—"That it is the opinion of this Houſe, "that his Majeſty has entered into engagements, which have "the obvious tendency of promoting the intereſts of other na- "tions, in which this country has no concern, and motives "which have been repeatedly diſavowed by the King's mi- "niſters."

Lord Hawkeſbury roſe to reply. He admitted that all the firſt part of the Noble Earl's argument was conſtitutional and correct. All our law books, the uniform tenour of the precedents, records, and entries, to be found in the Journals of the two Houſes of Parliament, ſupported it. Indeed, no doubt could be made that Parliament had a right to examine and decide upon the policy, wiſdom, and expediency of every treaty with a foreign power entered into by his Majeſty. Admitting all this in its fulleſt extent, his Lordſhip ſaid, he nevertheleſs ſaw not any good grounds or fit occaſion for the motion The two firſt inſtances which the Noble Earl had ſelected, of the interference of Parliament with reſpect to foreign negotiations, and which he had relied on, had been rather unfortunately choſen, ſince in neither point could the advice of Parliament be followed, it being found then neceſſary to conclude the treaty directly contrary to ſuch advice. The Treaty of Utrecht, it was well known, had been concluded, and a prince of the Houſe of Bourbon was left in poſſeſſion of Spain and other important territories. As to the treaties with the Landgraves of Heſſe Caſſel and Heſſe Darmſtadt, and the Margrave of Baden, the Noble Lord had himſelf partly admitted the neceſſity of them. With regard to the Noble Earl's objections to the other treaties, he would aſk the Houſe, was it wiſe, in ſuch a war as we were now engaged in, not to ſeek the alliance of the other powers? The neceſſity of the meaſure, as well as the policy of it, was ſo obvious, that he was ſure it would ſtrike their Lordſhips. So ſatisfied was he himſelf of the wiſdom and policy of forming treaties of alliance and ſubſidy, that he heartily wiſhed there were more of them on the table, being convinced that the more the better. He ſhould rejoice if there was not a neutral power in Europe.

The Noble Earl had ſaid, that the preſent conduct of Gentlemen who thought with him, might poſſibly be aſſimilated to the conduct of Lord Bolingbroke, in his attempt to break the con-

confederacy againſt Louis the XIVth; but the Noble Earl had aſſerted, that there was an eſſential difference between the preſent confederacy and that in the reign of Queen Anne; upon a more minute inveſtigation, the difference, Lord Hawkeſbury obſerved, would not be found to be ſo great; that confederacy was for the purpoſe of preventing the acquiſition of territory by France; ſo was the preſent; their object, in their unprovoked aggreſſion, was to acquire new territories, and to introduce into the territories ſo acquired, their new ſyſtem of anarchy.

Great Britain had remained contented and at reſt in perfect neutrality, while France was only engaged in inteſtine quarrels; but when the conduct of the French aſſumed a different and more alarming appearance, when the Low Countries were invaded, when Holland was in imminent danger, it became neceſſary for Great Britain to conſider how nearly the danger was brought to her own door; eſpecially as in the ſeizure of Nice and Savoy, and the conduct of the French reſpecting thoſe territories, it was ſeen what was to be apprehended from their ſucceſs in the field. By the adoption and enforcement of principles of the moſt dangerous kind, the French had threatened the deſtruction of order and government to every neighbouring nation; and as by conqueſt they might have ſpread thoſe principles, the putting a ſtop to them became a matter of concern to all Europe. The ſame infamous maxim they had adopted at home, they would have endeavoured to have carried into effect in other countries; and what they had perpetrated among themſelves, they would have enforced wherever they got footing; *viz.* putting every thing in a ſtate of *requiſition*. He begged their Lordſhips to take notice of the word, it was of the utmoſt importance, ſince requiſition, with them, meant nothing leſs than the *ſeizure and deſtruction of all property*, both public and private. They had carried this to the greateſt extent at home: They had ſeized all the property belonging to the Crown, all church lands, and the ornaments of the church deſtined to ſacred uſe, deſtroyed all the property of the Emigrants, and put every thing into what they termed a ſtate of requiſition; reducing men of any fortune, however large, to four hundred pounds a year; (Lord Grenville and Lord Auckland ſaid two hundred;) Lord Hawkeſbury therefore ſaid, he found he had overſtated it: Only two hundred pounds a year was the ſum to which men of the greateſt wealth and property were reduced. They had even gone into private houſes in ſearch of property, and taken away the few livres that they had found ſecreted, as the only property of the wretched owners. To prove that they wiſhed to carry the ſame principles

ciples into other countries, he would refer to their conduct when they got poſſeſſion of the Netherlands: There they planted the tree of liberty, and preached up equality and fraternization. They would have ſoon ſeized the property of the church there, had they been ſuffered to remain in quiet poſſeſſion; and it was evident they had hopes of next being the conquerors of Holland, where, indeed, there were no church lands, but in which one of their leaders had remarked, "there was the rich town of Amſterdam." It was not at all improbable to ſuppoſe they would next have turned to Italy; and, if left to themſelves, victory muſt have followed their footſteps; and there what plenty of church lands and eccleſiaſtical property would they not have found? In this manner they would have proceeded from place to place, until they had plundered every nation, and overturned every conſtitution. To ſuch a height had they carried their decrees of requiſition at home, that there was ſcarcely an article of commerce in France, that was not in that predicament; and even the articles of the huſbandman had not eſcaped, ſince cattle, &c. were obliged to be diſpoſed of at a certain price.

Thoſe being the principles, and which, throughout the various changes in their anarchy, had been uniform, was it ſurpriſing that the moſt conſiderable European Powers ſhould have found an intereſt in putting a ſtop to them? Or that England, from the ſituation ſhe held in the ſcale, ſhould ſtand forward, and endeavour to rally them to one point? His Lordſhip declared, he thought the miniſters had acted in a manner highly meritorious, in having negotiated and concluded the treaties on the table. That with Sardinia had been particularly objected to; but would their Lordſhips recollect in what light Sardinia had always been viewed as an European Power? Let Noble Lords look back to former periods of our hiſtory, and they would ſee what had been the invariable policy of our anceſtors. Sardinia, though its Prince was confeſſedly not the moſt potent, had ever been conſidered as a neceſſary barrier againſt the ambition of France. It might be conſidered as the key of Italy; and ſhould we deliver the key of Italy into the keeping of the French? If they once got hold of that, what could prevent their incurſions upon the Italian States, or check their depredations?

With reſpect to allowing the King a ſubſidy, it had always been uſual ſo to do, upon the opinion that he was unable of himſelf to make the great exertions that were neceſſary; for it ſhould be remembered, that he was bound to keep 50,000 men in arms during the whole war, and conſequently it was no more

than juſtice to guarantee him in the ſecurity of his whole dominions, for the hazard he was naturally expoſed to. In conſequence of the ſubſidiary treaty with Sardinia, 100 ſail of merchantmen richly laden had arrived the preceding day at Spithead from the Levant, the Mediterranean, and the various ports in that maritime quarter; a much larger and more valuable fleet than had ever been before known to arrive from thoſe ſeas in time of war.

With reſpect to the neutral nations, he entirely approved the conduct of Adminiſtration, and thought it was perfectly agreeable to what had been laid down as a rule by every great writer on the ſubject. Was it to be borne that Genoa and Denmark, neither of them capable of producing ſufficient corn and proviſions, for their own conſumption and neceſſities; ſhould take the advantage of their neutrality by opening their ports, for the purpoſe of receiving freights both of corn and proviſions, and carrying them into France for the ſupply of the French, in open hoſtilities againſt Great Britain? The policy of all war dictated that it was wiſe to deprive an enemy of ſupplies, eſpecially ſuch as they moſt needed. If proviſions became neceſſary to enable the enemy to carry on the war, proviſions, in every ſenſe of the word, were contraband articles; and it mattered not whether the port was blockaded or not, in which they attempted to enter. Denmark, a power, which, as he had before ſtated, did not grow corn enough for her own conſumption, choſe to act in this extraordinary way, and make herſelf the carrier of proviſions to France, when ſhe well knew that the greateſt part of Europe felt it their intereſt to endeavour to cruſh the dangerous efforts of the French, not only to make univerſal conqueſt, but to foment univerſal rebellion, and to ſubvert all regular government in every country where they could obtain a footing. With regard to Genoa, the conduct of that republic was the more to be wondered at, as it was clearly the intereſt of the Genoeſe to prevent the French, by every means in their power, from over-running the Italian ſtates, and ſubverting their ancient ſyſtems of government. The law of nations, as laid down by every writer, Lord Hawkeſbury ſaid, clearly warranted the conduct Great Britain had purſued reſpecting neutral nations, and proved that we had acted with ſingular mildneſs and temper, where the provocation would have juſtified meaſures much more harſh and rigorous. Before their Lordſhips felt themſelves prepared to condemn, it was, however, neceſſary for the Houſe to inquire a little into the mode of proceeding, and then they would find, that, in all the veſſels which had been

been ſo ſeized, the full value had been paid for their cargoes; and therefore the commercial man had not ſuffered the ſmalleſt injury by the detention of his property.

With regard to the reſtoring of the family compact, his Lordſhip declared, he would prefer the reſtoration of the family compact, though the natural enemies of this country, to the preſent exiſting and uſurped government of France, who were the natural enemies of all mankind.

Having brought his argument to a concluſion, his Lordſhip took up the motion from the table, and after peruſing it attentively, denied the truth of its poſitions ſeverally. So far from our not having a concern in the proſecution and object of the war, he aſſerted that we had the greateſt concern and the deepeſt intereſt of all the European powers engaged in it: That the treaties on the table ſufficiently proved how nearly we were concerned and how deeply we were intereſted; and that they were in no reſpect whatſoever contradictory to the declarations of his Majeſty's miniſters delivered in Parliament. He concluded therefore with ſaying that he ſhould give the motion his negative.

The Earl of Caernarvon ſaid, that he was not ſurpriſed that the Noble Lord who profeſſes an opinion adverſe to the war, ſhould look with an evil eye on the treaties which are of the eſſence of that war, and without which it could not be carried on. "The Noble Lord has been led, by this unfavourable opinion of the war, to throw out of his conſideration all the political motives which have induced theſe treaties as a kind of fancy price, which ought not to enter into the fair commercial eſtimate of their political value. The Noble Lord aſſerts that all the treaties are diſproportioned to their object, impolitic, and have contributed to make us principals in a war begun by others, on principles diſavowed by miniſters, and contrary to the intereſt of the country. None of theſe poſitions he has in the ſmalleſt degree proved; and the Noble Lord cannot produce a ſingle ſentence in any of the treaties which juſtifies the aſſertion. He has chiefly dwelt on the treaty with the King of Sardinia, as that which, on the face of it, if you lay out of your conſideration the forcible motives ariſing from the neceſſity of the war, has the leaſt apparent equality in the terms of the contract. The Noble Lord balances the ſums given with the hard military ſervice to be returned, with the ſame ſcrupulous exactneſs as if all treaties were of the ſame commercial nature as thoſe for troops with the Landgraves of Heſſe Caſſel and Darmſtadt; and he qualifies this treaty with the ſtyle and title of an inexplicable prodigy, a phenomenon in diplomatic compoſition. Whatever colour and complexion the Noble Lord's

arguments have received from his opinions of the war (and he confeſſes that he feels in all he ſays their impreſſion), yet he muſt mean to ſay, that even if the war was neceſſary, this treaty is impolitic and diſproportioned to the reſpective intereſts of the parties and to the exigencies of the war, or the whole argument muſt degenerate into another diſcuſſion of the propriety of the war, which has already taken ſo many ſhapes; and the war and the treaties muſt ſtand and fall by the ſame arguments, arguments which have been already diſcuſſed and decided upon by both houſes, and which I ſhall not now recapitulate. Aſſuming therefore as admitted, for the ſake of argument, that the war is neceſſary, then I join iſſue with the Noble Lord, and aſſert that all the treaties are fit and proper to have been made, and that the treaty with the King of Sardinia, which he peculiarly reprobates, is a prudent and wiſe meaſure, and the ſtipulations not diſproportioned to the prudential motives of the treaty. The Noble Lord, with that force and perſpicuity which belongs to him, ſays that we pledge ourſelves to give much, in order that all the benefit may accrue to the Court of Sardinia; and that, in further conſideration of their accepting theſe benefits, we bind ourſelves unneceſſarily not to make peace without procuring for them all the territory which they had loſt, and all that they might loſe in the progreſs of the war, and that on our part we receive nothing in return; that we ſupply a fleet for their protection, and give 200,000l. annually to induce them to defend themſelves, which the Noble Lord thinks it was their intereſt to do without ſuch inducement: This is the view which the Noble Lord gives of this treaty; and nothing but a partial conſideration of the ſubject could have given the ſmalleſt plauſibility to ſuch a ſtatement; a few ſimple principles will ſerve to put this treaty in its true light, and for this purpoſe it is neceſſary to obſerve, that whenever it is the intereſt of a great nation to protect a weaker from the oppreſſion of a powerful neighbour, it is its own intereſt, and not that of the weak nation, which is the object; and from the nature of the aſſiſtance ſo motived and given, it is not to be repaid under ſpecific articles of the treaty, for it is given only becauſe ſhe is unable to ſupply the means of her own defence, and becauſe it is the intereſt of the protector not to ſuffer her to be abſorbed in the growing power of the oppreſſor; and if all the parties are at war, the protector may ſerve the additional purpoſe of occaſioning a diverſion of the troops of an enemy. A treaty therefore between an oppreſſed and protecting nation may be prudent and politic on both ſides, and yet all the ſtipulations may, indeed from their nature muſt be, to the apparent benefit of the pro-

protected nation, and none for the advantage of the protecting power. He derives his advantages from the conſequences flowing from the benefit he confers, not from the ſtipulated proviſions of the treaty. This is the political key to this treaty and to all treaties of this nature; they muſt be judged from the ſituation of the parties, and not from the terms of the treaty alone; and it may be a very improvident and impolitic treaty for the party who on the face of the treaty ſeems to receive all and give nothing. Such would have been the ſentiments of any perſon who had judged of the King of Sardinia's ſituation the year after the treaty of Worms, a treaty, the exact counterpart of the preſent, with all the ſame apparent advantages on the face of the treaty; yet theſe apparent advantages did not prevent the King of Sardinia from being ſtript of all his dominions; and nothing but the gaurantee ſimilar to that now complained of produced his recovery from total ruin. The King of Sardinia, from his local poſition and his inability to cope with France, muſt at all times be an inſtrument of power in the hands of France, or a thorn in her ſide if protected and indemnified by the powers at war with France from the perils ſhe expoſes herſelf to by the alliance. All the treaties which this country has ever made with Sardinia prove this fact, and have been founded on this principle, whether they have had for their object to withdraw her from an alliance with France, as in 1703, or to protect her from the ambition of France, as in the treaty of Worms in 1743. The principles of all theſe treaties equally prove that Sardinia is unequal to her own defence, equally prove her value as an ally, and equally acknowledge the neceſſity of furniſhing her with the means of defence, and encouraging her to face the ſtorm, ſo dangerous from her local poſition, by guarantee of her dominions. What was the ſituation of Great Britain and Sardinia previous to and at the time of this treaty? Great Britain found two great powers at war with France; Savoy had been ſucceſsfully invaded, and unable to defend herſelf, and was on the point of ſinking under the force which aſſailed her, or ſubmitting to any terms which might have been impoſed: The intereſt of Great Britain muſt have been materially affected by this event, and ſhe muſt ultimately have interpoſed to prevent it. The Noble Lord charges the temporary omiſſion of ſuch interpoſition as a neglect of the King's miniſters, and by ſo doing he juſtifies the whole war; for if it would have been prudent to engage in a war to protect Savoy at that time, it is equally ſo now, and it was equally ſo to interpoſe for the protection of Holland: But France gave no time for deliberation, no time for the King's miniſters to weigh the

the ſituation of Savoy, and the proper conduct for Great Britain to hold; for ſhe at the ſame moment attacked an ally, and threatened the ſecurity of Great Britain herſelf. Another motive therefore for the defence of Savoy immediately preſented itſelf, and the King's miniſters ſaw that the neceſſary defence of Savoy might operate as a uſeful diverſion of the forces of France, with whom a war was inevitable, and that the money and troops ſo employed would enable them with greater eaſe to make conqueſts in other parts. It is impoſſible that any perſon who conſiders the ſituation and importance of Savoy, and the terms of the treaty, can imagine them too favourable to Savoy: She furniſhes 50,000 men for the common purpoſe of the war, of which her own defence is a moſt eſſential part, for a ſum which would not put above 20,000 Heſſians in action; and you compenſate the riſk and peril ſhe expoſes herſelf to rather than compromiſe her quarrel with France, by giving aſſurances common to all treaties of offenſive and defenſive alliance, that you will not deſert her in the utmoſt time of need, expoſed without aid to the reſentment and vengeance of a more powerful enemy; you pledge yourſelves to do, what your honour and intereſt would compel you to do without ſuch engagement. The Noble Lord has confined himſelf chiefly to this treaty, but he objects to all the treaties, and his motion ſtates the ground of theſe objections to be, that they tend to involve you in the war on the principles, whatever they may be, on which your allies commenced it, contrary to the intereſt of Great Britain. The Noble Lord has not attempted to ſupport this aſſertion by the ſhadow of an argument, and I defy the Noble Lord to point out a ſingle ſentence which will give colour to ſuch a charge; ſo far from it, that all the treaties ſtate defence as the object of the war: That with the Courts of Naples, Portugal, and Ruſſia, declare the grounds of the war to be no other but *an unjuſt war declared againſt Great Britain and her allies*, and the object to be, to ſecure each other's dominions and reſtore public tranquillity: That with Spain ſtates cauſe of uneaſineſs for our reſpective dominions, and the object the maintenance of the tranquillity of Europe: Sardinia ſtates unprovoked aggreſſion mutually experienced, and the object mutual defence: That with Pruſſia and the Emperor ſtates unprovoked and cruel war commenced by France, and the object to oppoſe a barrier to the danger, and maintain the general tranquillity of Europe. There is no ſtipulation in any one of theſe treaties that pledges Great Britain to any of the views, avowed or ſecret, which may urge the other contracting parties to purſue the war beyond the preſervation of their dominions, againſt unprovoked attacks,

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and the maintaining of the general tranquillity of Europe. It is not poſſible to frame treaties ſo little liable to the objections made in the terms of the motion, which I therefore cannot concur in, and have no difficulty to ſay that I agree with the Noble Lord who ſpoke laſt, in wiſhing that there were more of them. I wiſh, for inſtance, there had been one with the Swiſs Cantons; I ſhould have cheerfully concurred in a ſubſidy to engage their troops and their intereſt in a cauſe common to all Europe. With reſpect to the exiſting treaties, they have my warm approbation, and particularly that with Sardinia, which the Noble Lord ſeems to reprobate the moſt."

The Earl of Lauderdale ſaid, that he did not hear thoſe laviſh praiſes of the conduct of Government which had been beſtowed on former occaſions, that night; he ſuppoſed that Noble Lords were better ſatisfied on that ſubject. His Lordſhip contended, that neither of the Noble Lords who had ſpoken on the ſubject had taken into conſideration, that the ſeveral powers with whom we had entered into treaty, were previouſly engaged in the war; that it required no very great diplomatic talents to perſuade one power to accept a ſubſidy, and the others the aid of our exertions by ſea and land, without any expreſs ſtipulations on our part. In order to elucidate this part of his argument, he took a comprehenſive view of the nature of the different engagements we have entered into with the different powers engaged in the preſent war againſt France, and maintained, that they were ſuch as could not be all carried into effect, for that they were utterly repugnant to each other in many eſſential parts; no two of them agreeing, and many of them being at variance even with themſelves. He deſired Noble Lords to give themſelves a moment's time to recollect the different intereſts of the King of Pruſſia compared with our intereſts, and condemned a ſyſtem of alliance, tending to diſtract our commercial intereſt, and leſſen the produce of our manufactures, by diminiſhing the number of markets which, without ſuch a combination, would be open to our commerce in the uſual way of trade. He thought the kingdom at large was under great obligation to the Noble Earl for having brought forward the motion of that day; their eſſential intereſts exiſted in commerce, and conſequently in peace; and to prove how far that had been injured by the preſent war, one ſingle remark would be ſufficient: No man could be a ſtranger to the injury the commerce of this country received during the war with America; and yet, long as that war had continued, application had not been made to Government for that aſſiſtance which in the preſent war had been found requiſite in the firſt campaign. The treaties on

the table he objected to *in toto*, ſince they manifeſtly bound this country down to various diſadvantages, and ſtipulated for nothing in return. He ſaid he could not admit that great alliances were always expedient; and reminded the Houſe of the danger that might enſue from binding ourſelves to each power in a different manner. We were not to be permitted to make peace, even upon the moſt advantageous terms, unleſs Savoy was reſtored to the King of Sardinia, although Savoy had been taken before we were concerned in the war; nay, he would contend, and he deſied miniſters to contradict him, that by theſe treaties, if Auſtria was to withdraw, if Spain, Pruſſia, nay, if all were to give out and withdraw from the combination, we then ſhould have to continue the war by ourſelves, and at our ſingle expence, for the reſtoration of Savoy, or give up Britiſh faith. He knew ſuch an idea muſt appear ridiculous; but he alſo knew ſuch was the fact, and ſuch was the nature of theſe various treaties. There was however a poſſibility, that ſome of our allies might get a little cool upon the ſubject, a fact which he conceived to be ſufficiently notorious, although miniſters found it convenient to be ſilent upon the matter; in ſaying this he alluded not to vague reports, but to the official papers on the continent, which declared that publickly, of which we had not in this country heard the moſt diſtant hint. His Lordſhip ridiculed the idea of our making a common cauſe of this war with the other powers confederated againſt France, for the purpoſe of eſtabliſhing a government in that country on which we could confide. Our view, as expreſſed in the declaration to the people of Toulon, was for a limited monarchy, and we muſt naturally wiſh for a limited monarchy, becauſe the people under that government had experienced many bleſſings. Would Spain agree to this? Would the Houſe of Auſtria agree to it? Would the King of Pruſſia agree to it? Was it not known that M. de la Fayette, the ſtrenuous ſupporter of the French conſtitution of 1789, which we had promiſed to eſtabliſh, now lies in a dungeon, at the inſtance of the King of Pruſſia our ally? The people of Pruſſia, or rather the King, ſince in that deſpotic country the people had no voice, would wiſh for a deſpotic government; and perhaps the Empreſs might expreſs her deſire that an elective monarchy, ſuch as the old conſtitution of Poland, might be eſtabliſhed. But the miſchief did not end here; for ſuppoſing that all the Combined Powers, not profeſſing one common intereſt againſt France, were to agree in one common object in that war, and ſuppoſing them to act in ſtrict conformity to that agreement, and that they ſhould only require an indemnity for the loſſes they muſt inevitably ſuſtain in proſecuting

ſecuting the war; and ſuppoſing ſtill further, that they ſhould gain the full extent of their wiſhes, the entire ſubjugation of France, what would then be the conſequence? Spain muſt be indemnified; Sardinia muſt be indemnified; Ruſſia muſt be indemnified; and Auſtria indemnified! How was this to be done? By dividing France; and after this diviſion had taken place, to the ſatisfaction of the parties, there would not be left of the dominion of France any part conſiderable enough about which to contend for a form of government. His opinion was, that complete ſucceſs over the French would be one of the worſt things which could happen for this country; for Great Britain would in that caſe find nothing but ruin in the event. As this however was a diſtant proſpect, we ſhould look at what was more likely to be the point of diſpute for a long time to come, if the war was to be carried on, upon the preſent ſyſtem of the allies, and for the general object they pretended to have in view, namely, a form of government for France. Upon that point he could not ſee how the parties in alliance could agree. To an Engliſhman, as he had before ſtated, a limited monarchy would be natural; to the other powers, a military government; ſo that he ſaw no probability of the allies at all agreeing on the form of government they ſhould impoſe on France, ſuppoſing them even to be able to impoſe any. He expreſſed his ſurpriſe at the language held by the Noble Lord with reſpect to Denmark; ſuch a tone could not be borne and endured by a power of any ſpirit, nor did he think language ſo near to groſs inſolence ought to be allowed in a Britiſh Senate: Were we to ſay to a neutral power, Becauſe you have not ſufficient of ſuch a commodity for your own uſe, you muſt not therefore dare to vend it? It was for the miniſters of that country to conſult its intereſts, and to make ſuch regulations as they thought beſt ſuited to its circumſtances. He quoted an extract from Lord Hawkeſbury's diſcourſe on the Eſtabliſhment of a national and conſtitutional Force in England, and reminded him of the caſe of the Dutch in the war of 1756, in direct contradiction of what he had that night affirmed. The Noble Lord had expreſſed a wiſh that all the countries in Europe ſhould be engaged as our allies in the war againſt France; for his part, he had no ſuch wiſh. Our reſources for carrying on the war were to be derived from our trade, which a general war muſt entirely deſtroy; and becauſe it would tend to delay peace, the only thing that could be of eſſential advantage to the country. He thought the Noble Lord had acted with much indelicacy towards the commiſſioners at Toulon, when he declared, there was no treaty by which this country was bound to the re-

tend only to a momentary ſecurity, and a deluſive repoſe of ſhort and uncertain duration, by tending to weaken the alliances that had been formed? He was of the latter opinion. With regard to the treaty with the King of Sardinia, he conſidered it as an extremely wiſe meaſure on the part of Great Britain; and that we ought to inſiſt on the reſtoration of Savoy to the King of Sardinia at any price, becauſe, as had been well aſked, would we conſent to lodge the key of Italy in the hands of the French? He much applauded the exertion of miniſters, and as to a form of government for France, he thought there was a ſilent wiſh prevalent in that country, that it ſhould be a Monarchy under ſome limitations or other. So convinced was he of this, that he had no doubt, if ſupport ſhould be given to thoſe who wiſhed to live under a regular form of government, and ſee an end to the preſent ſyſtem of anarchy, oppreſſion, and tyranny, a civil contention and internal reſiſtance would take place, which would tend more effectually to reſtore peace, order, and good government to France, than any operations of foreign force, and would be well purchaſed at any price. He concluded with obſerving, that the great object of the war was the deſtruction of the preſent tyranny of France, and the annihilation of the Jacobin faction. It was an object that muſt be accompliſhed before any order could be reſtored, or any ſecurity obtained for Europe; an object as great and glorious as any that ever called for the united efforts of mankind. From theſe conſiderations he held himſelf bound to reſiſt the motion before the Houſe, and give it his decided negative.

The Marquis of Lanſdown ſaid, it would not remain for him to trouble their Lordſhips long, as the motion had been ſo ably ſupported by argument already. He would not utter a ſingle ſyllable with reſpect to Lord Hood; he would not mention a word againſt his conduct; he would leave it to futurity to decide, when the people of Great Britain ſhould view the ſubject diveſted of myſtery, when the ſhades of doubt had paſſed away, and when truth ſtood on its own broad baſis. In the time of Sir Robert Walpole, he maintained that there never was greater profuſion than at the preſent period; a period when economy was never more neceſſary. He highly approved of the motion, and muſt ſay, that there was great good ſenſe, in the Noble Earl's having, in arguing upon the treaties on the table, divided them into two claſſes, which he ſhould take the liberty of diſtinguiſhing under the names of political treaties and ſubſidiary treaties. He would ſupport the motion moſt ſtrenuouſly, as tending to ſtop the torrent of alliances that ſeemed at preſent to confound all ideas of diſtinction

tinction in diplomatic conventions and agreements. Miniſters had ſo blended ſubſidiary with political treaties, that it was hardly poſſible now to know the one from the other of them. He condemned as profuſe, extravagant, and ſhameful, moſt of our ſubſidiary treaties: He thought the treaty with the King of Sardinia was of this deſcription, as well as many of our German and other continental engagements, in which there was nothing to be ſeen but the moſt ſhameful inequality, and want of reciprocity. He alledged that there were no other people this day upon earth like the people of England; they had ſuffered themſelves to be lulled to ſleep, and nothing but their unparalleled torpor and ſtupidity would have enabled miniſters to proceed as they had done in the preſent war. Engliſhmen, who were free, and had none of the internal inconveniences to which many of our allies were ſubject, were to be put on a footing with, nay, to ſubſidize and pay taxes for, thoſe whoſe blood was ſold, let out to hire, and hackneyed for the ſervice of their Sovereigns! He expreſſed much apprehenſion that, when taxes came to be heaped upon taxes on the people of England, lethargic as they were at preſent, they might awake, nay, he already doubted whether the merchants of London would bear the conduct of miniſters much longer, and the conſequences he would not preſume to foretel. Part of what he had already feared, and predicted as the probable conſequence of negativing his motion the other day for peace, had already proved true. He was alarmed at what might be the effect of the next campaign. He did not pretend to ſpeak from any private information, but from the official reply of the King of Pruſſia to the Circles near him, which was plainly given in the foreign gazettes: He thought there could not be any doubt of its authenticity. In that paper it would be found, the King of Pruſſia had made a formal demand of a certain ſupply for the maintenance of his troops; the Diet of Ratiſbon not approving the demand, had rather preferred defending themſelves, and offered to riſe in a maſs. To this the King of Pruſſia objected, ſtating ſeveral reaſons againſt putting arms in the hands of the peaſants; but particularly the great neglect of huſbandry and agriculture that it would occaſion, and that when the peaſants ſo armed, there might be great danger of their imbibing new principles. Theſe apprehenſions might ariſe in the minds of ſome of our allies, who are conſcious the deſpotiſm of their governments, and the hardſhips the people labour under, have rendered them ripe for revolt. But could any of theſe alluſions be brought to bear upon England, where the people were all happy in their conſtitution? Becauſe, as the merchants in their addreſs had moſt

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emphatically expreſſed it, "If it has any defects, it poſſeſſes the right and the power to amend them." The miniſter of the Court of Berlin, however, finding the different feeling of all Germany, and finding the Circles firm, at length informs them, that the King, his maſter, was in negotiation with one of the principal powers engaged in the war, and by which he thought he ſhould be enabled to releaſe them from a great part of what he had required. What was this leſs than ſaying, the people of England will take the burden upon themſelves; the men of Suabia ſhall be ſaved, and Engliſhmen are to be taken, burdened, and oppreſſed, beyond bearing? What apology, he aſked, could they make for laviſhing the treaſures of England in ſubſidizing Sardinia and Pruſſia to protect their own dominions? If the German Princes were to ſay, that they would withdraw their troops, he ſaw no reaſon for this country to feel concerned for the meaſure.

The Noble Lord (Lord Hawkeſbury), who had firſt objected to the motion, had done ſo, not by anſwering thoſe ſtrong and candid arguments, by which his Noble Friend had introduced it, but by the old, hackneyed, and now worn-out appeal to the paſſions, on the enormities of the French. He had, indeed, told us we were not fighting to put Louis XVII. on the throne; but he had not told us for what we were fighting, for what the blood and treaſure of this country was to be totally exhauſted. The Marquis ſaid, he did not think the proſpects from the laſt campaign were by any means ſufficiently flattering to induce us to perſevere, when we did not know for what. By the treaties it was manifeſt, that, inſtead of an auxiliary, aſſiſting our ally, we had ſomehow or other become a principal, and were not only content and eager to fight ourſelves, but diſpoſed to pay all who were ready to fight for us. Some of our allies, indeed, might be ſatisfied with the war, ſince, but for the conteſt with France, he did not believe the ſhameful diviſion of Poland would have taken place. Therefore, by looking at the paſt, Poland had been divided, and it was ſuppoſed to be the object of Ruſſia to commence an immediate war with Turkey, for which purpoſe, he underſtood, great armaments by ſea and land were already preparing by the Court of Peterſburgh. How would one of our allies, Auſtria, feel in that caſe? But if, for the ſake of cruſhing the French, we were to enter into a treaty with the Empreſs, to procure her friendſhip for that good common cauſe, to guarantee to her any poſſeſſions of the Turks, there was no doubt but that juſt Princeſs would be punctual and faithful to her engagements; and when the Noble Lord on the croſs bench (Lord Hawkeſbury), ſhould publiſh a new edition

of

of his excellent diſcourſe on the Law of Nations, he would adviſe him to dedicate it to the Empreſs of Ruſſia.

The Marquis ſaid, a whimſical ſort of contradiction and variety was obvious in the conduct of his Majeſty's miniſters. By their language it would ſeem, as if we were to look at one another in this country with univerſal diſtruſt and jealouſy, for that the country was ready to burſt into inſurrection. By their conduct it would appear, that we were perfectly ſafe, ſince they were day after day ſending off to other kingdoms the whole wealth and ſtrength of this nation, not only to pay them for fighting our battles abroad, but all our own troops, leaving the kingdom to defend itſelf, in caſe of attack, by foreign force, which had more than once been ſeriouſly talked of as a matter to be expected. Upon all theſe grounds, the Marquis ſaid, he approved of the motion, becauſe he thought it wiſely calculated to check theſe improper practices, and to contain the moſt important truth in every ſentence of it; and, therefore it had his aſſent.

The Duke of Leeds ſaid, ſeveral Noble Lords had argued as if the time were come for Parliament to decide what the conſtitution of France ought to be; he heartily wiſhed that fortunate moment was arrived, but it was by no means the caſe at preſent. He declared he had liſtened with great attention to the Noble Marquis, becauſe attention was, at all times, due to him on account of his character, and on account of his talents and experience as a ſtateſman. He could not, however, help being ſomewhat ſurpriſed at the contradictory accounts which the Noble Marquis, at different times, had given of the temper and character of the people. At one time, he had deſcribed them as inſenſible and indifferent, ready to bear any thing, and willing to be beaten and trod on without reſiſtance. At another time he had ſtated them to be all alive to the preſſure of the burden of taxes, prone to diſorder, ready to riſe, and ripe for reſiſtance and tumult. He was, the Duke ſaid, the more amazed at this, becauſe he well knew, however prone others might be to excite and encourage popular diſcontent and clamour, the Noble Marquis would not be the man to raiſe ſedition, or do any thing to induce the people to abandon the ſubſtantial bleſſings they enjoyed under the exiſting conſtitution and eſtabliſhed form of government, and riſque the loſs of every thing dear to a reflecting mind in a raſh and fruitleſs purſuit of fancied benefits, and imaginary advantages, which, in the nature of things, were not to be obtained. Having preſſed his irony as far as he could carry it with a due regard to delicacy, his Grace declared explicitly, that he highly approved of the treaties on the table: He thought

thought them to be founded in true policy, and ſuch as would prove uſeful and beneficial to the country. The Duke complimented the Earl of Guildford on the ability which he had diſplayed, and on the becoming manner of his opening the motion. He ſaid, he gave the Noble Earl full credit for the purity of his motives, but muſt beg leave to be allowed to differ from him entirely, and that on principle. The nature of our conſtitution was ſuch, as rendered it impoſſible to provide for the internal defence of the kingdom, and carry on active operations againſt our enemies abroad, without ſubſidizing foreign Princes capable of furniſhing foreign troops. The policy of this practice had been adopted, and certainly it was a wiſe one to be purſued, the nature of our conſtitution making it unavoidable. The treaties on the table therefore were, in his mind, extremely judicious, and appeared to be founded in ſtrict policy; and for that reaſon he joined with other Noble Lords, in wiſhing that there were more alliances, thinking, as he did, that the more the better. Moſt of all he approved the treaty with Sardinia, becauſe, as had been well ſaid, it would be the reverſe of wiſdom to ſuffer the French to be the holders of the key of Italy. The treaty was the ſame with that of Worms, concluded in September 1743; the ſubſidy exactly the ſame, but the preſent was, not like the treaty of Worms, retroſpective. This circumſtance was to the praiſe of miniſters, who had thus by economy ſaved the country 300,000l. The treaty of Worms, though concluded in 1743, commenced as to the ſubſidy retroſpectively in 1742.

The Duke ſaid, he looked at every treaty on the table, but one, with ſatisfaction; and that was the convention with an illuſtrious Potentate, that he owned gave him ſome concern. He ſaid, it was far from his intention to caſt any imputation on miniſters for having made the treaty in queſtion; they deſerved the thanks of the Public for what they had done. But if Noble Lords would look at the convention to which he alluded, and he believed it was on the table, they would ſee that it contained mutual ſtipulations. His concern aroſe from thoſe ſtipulations not having been completely fulfilled on each ſide. On our part we certainly had complied with our conditions: Had Ruſſia done the ſame? In regard to what had been alluded to in the courſe of the debate, our conduct towards neutral powers, he would ſay a word or two. Denmark had been particularly mentioned, and it had been made juſt matter of complaint that Denmark, though known to be deſtitute of ſufficient corn, and ſufficient proviſions, for her own occaſions, ſuffered ſhips to bring both into her ports, and then ſupplied France with each from time to time. If Ruſſia had been

been as willing to fulfil the ſtipulations ſhe had entered into by the convention in queſtion, as we had proved ourſelves to be, was it not obvious that ſhe might have put an end to the miſchievous conduct of Denmark whenever ſhe pleaſed? His Grace made a few obſervations on this point, and concluded with expreſſing a wiſh, that his Noble Friend who made the motion would give him leave to vote againſt it, becauſe he thought it by no means founded in fact, nor proper to paſs under the exiſting circumſtances of the country.

A diviſion taking place, there appeared for the motion,

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HOUSE OF LORDS.

WEDNESDAY, *March* 19.

SCOTCH APPEAL.

Mrs. Sarah Aglianby, widow of the deceaſed Richard Lothian, Eſq. Appellant.

John Maxwell, Eſq. and Wellwood Maxwell, Eſq. Truſtees of George Roſs, late Merchant of Dumfries, Reſpondents.

Counſel were called to the Bar in this cauſe.

The Attorney General and Mr. Anſtruther for the Appellant, and Meſſrs. Grant and Ferguſon for the Reſpondents.

From the importance and length of this cauſe, the Attorney General only went through part of the Appellant's caſe, and the further proceedings were adjourned till the 20th.

The Bills on the Table went through their reſpective ſtages. Adjourned.

HOUSE OF COMMONS.

WEDNESDAY, *March* 19.

All applicants reſpecting the Wiſbeach Canal are to have voices.

Paſſed the Huddersfield Canal, and Tuddenham Incloſure Bills.

To lie on the Table, Account of Hull Cuſtoms, and Rippon Woolcombers' Petition.

To be engroſſed, the Rochdale Road, Harlington Canal, and Eaſt Mark Incloſure Bills.

Referred to a Committee, Petition againſt Melton Incloſure. The Petitioners to be heard by Counſel.

Adjourned.

HOUSE OF LORDS.

THURSDAY, *March* 20.

Heard Counſel on an Appeal, Sarah Aglianby, otherwiſe Lothian, widow and executrix of Richard Lothian, Eſq. deceaſed, Appellant; John Maxwell and others, Eſquires, Reſpondents.—Ordered further hearing to-morrow.

Received from the Commons ſeveral Private Bills.

The Houſe in a Committee went through the Penny Poſt regulating Bill, and ordered the Report to be received to-morrow.

Lord Auckland moved, That there be laid before the Houſe, accounts of all the ſhips cleared out of Ports in Great Britain to the Coaſt of Africa, with their tonnage, from the year 1788, to the lateſt period to which they can be made up.

Alſo accounts of the number of negroes imported into the Weſt Indies, for the ſame period.—Ordered.

The Duke of Clarence preſented a Petition on behalf of the Merchants of Liverpool againſt the Bill now depending for preventing the ſupply of foreign territories with ſlaves in Britiſh ſhips, or by Britiſh ſubjects.

Ordered to be laid on the Table.

Adjourned.

HOUSE OF COMMONS.

THURSDAY, *March* 20.

The Reading Roads Bill was preſented, and read the firſt time.

A Petition from the Journeymen Bakers againſt the Sunday Bill was preſented, and referred to the Committee on the Bill, and to be ſupported by Counſel.

The Petitions preſented from the Manufacturers of Woollen Cloth in the Weſt Riding of the County of York were referred to a Committee.

The Mark Incloſure, Militia Augmentation, and the Scaddowgate Roads Bills, were read the third time, and paſſed.

The Report of Miſs Atherton's Petition was ordered to be conſidered that day week.

The Rippon Road, Glamorgan Canal, and the Werwick Incloſure Bills were read, and ordered to be engroſſed.

Mr. Thompſon ſaid, that on account of the abſence of a Right Hon. Gentleman (Mr. Dundas) he ſhould poſtpone the motion of which he had given notice till Tueſday next. He took this opportunity of intimating that the motion was not merely for a liſt of all the perſons who had actually quitted the country,

country, but of all who had been ordered to quit the country under the Alien Bill.

Major Maitland preſented a Petition againſt the Aberdeen Police Bill, which was ordered to lie on the Table. He ſaid it was his intention to have moved that the ſecond reading of the Bill be poſtponed, that the petitioners might have time to be heard againſt it; but on account of the abſence of an Hon. Gentleman who ſupported the Bill, he ſhould defer the motion till the next day.

Mr. Long moved for leave to bring in a Bill, to prevent the exportation of Pot-aſh coaſtways, and alſo to indemnify certain perſons who had acted under an order of Council in detaining certain veſſels laden with Pot-aſh. The Houſe went into a Committee, and leave was granted.

DUTIES ON PAPER.

The Houſe went into a Committee on the Paper Bill, when *Mr. Brandling* objected to the preſent arrangement of the duties: What he chiefly inſiſted upon was the great diſproportion of impoſt which was laid upon printing paper. A diſtinction, in his opinion, ought to have been preſerved between printing and writing paper; whereas the duties on whited brown and brown paper were of ſuch a nature as to operate as a ſpecies of ſhop-tax on the retail dealers, who were a very uſeful though indigent ſet of men. In making theſe remarks, it was no part of his intention to embarraſs the meaſures of the executive government, but merely with the hope that the Chancellor of the Exchequer would arrange matters to the ſatisfaction of all parties.

Mr. Roſe admitted the inequality, but ſaid, it was found impoſſible, upon the moſt mature deliberation, to remedy the evil, as many of thoſe papers claſſed under the head of writing paper, were frequently uſed for printing. He ſtated, that the preſent duties would not exceed thoſe which were intended to take place by the regulations of the year 1789.

After ſome further converſation, in which *Sir Matthew Ridley*, *Mr. Steele*, and *Mr. Taylor* ſhortly ſpoke, the Bill was read a ſecond time. The Report to be received on Monday the 24th.—Adjourned.

HOUSE OF LORDS.

FRIDAY, *March* 21.

Read a third time the Militia Bill, as alſo ſeveral Private Bills.

The Duke of Norfolk preſented a petition in behalf of the Hon. Mr. Howard, praying that leave be given to bring in a Bill for diſſolving the marriage between him and Lady Elizabeth his preſent wife.

The petition being preſented, and leave being given according to the prayer of it, the Bill was brought in immediately, and read a firſt time.

Heard Counſel on an Appeal from Scotland, and ordered a further hearing.

Adjourned.

HOUSE OF COMMONS.

FRIDAY, *March* 21.

A meſſage from the Lords informed the Houſe, that their Lordſhips had agreed to the Bill for regulating the Penny-poſt, and ſeveral private bills, without any amendment.

The Chancellor of the Exchequer brought up a meſſage from the King, importing, "That his Majeſty had given directions, that the houſe lately occupied by the Auditor of the Exchequer, ſhould be appropriated for the Speaker of the Houſe of Commons for the time being."

Lord Frederick Campbell moved an Addreſs of Thanks to his Majeſty, for his condeſcenſion and goodneſs in making ſuch a gracious communication, which was carried *nem. con.* as alſo that ſuch Addreſs be preſented by ſuch Members of the Houſe as were of his Majeſty's Moſt Honourable Privy Council.—Ordered.

SUBSCRIPTION FOR RAISING TROOPS FOR THE PURPOSE OF INTERNAL DEFENCE.

Mr. Sheridan ſaid, he underſtood that letters had been ſent to the Lords Lieutenants of ſeveral counties, by Government; which letters had been laid before the Grand Juries. He wiſhed therefore to aſk the Chancellor of the Exchequer, if the meaſure which had been lately publiſhed relative to the recommending the raiſing of troops by voluntary ſubſcription, upon plans to be ſuggeſted by the Lords Lieutenants of different counties, came from the Secretary of State? and if ſo, whether the Right Honourable Gentleman had any objection to laying that communication before the Houſe? He ſhould ſuppoſe there could not be any objection to this. Indeed, it was a point that required little or no argument, as he conceived; ſince nothing could be more clear than that a propoſition from the executive power to any quarter whatever, on

ſo public an object, for the raiſing of troops, ought and muſt be laid before Parliament. Nor could there be any thing more decidedly unconſtitutional than that there ſhould be any meaſure whatever carried on for the raiſing an army, without the immediate knowledge of the Houſe of Commons. All that he wanted to know was, Whether this communication was to be laid before the Houſe as a matter of courſe? becauſe, if if were not ſo intended, he muſt move for it on the firſt open day.

The Chancellor of the Exchequer ſaid, the Hon. Gentleman had not been in the Houſe on a former day, when a ſhort converſation on this ſubject had taken place, or he would have heard him declare that it was his intention to ſtate the meaſure to Parliament as ſoon as it was ſufficiently matured. The communication to which the Hon. Gentleman alluded, was not a ſpecific plan for raiſing troops; the whole was nothing more than a meaſure by which miniſters might be enabled to digeſt ſome plan or other, which, when digeſted, ſhould be laid before the Houſe the firſt practicable opportunity. Eſtimates were actually prepared, and would be ready, he believed, to be preſented to the Houſe on Monday the 24th. With regard to the paper of communication to the Lords Lieutenants, he could not agree that it ought to be produced; and what he had ſaid already, he hoped would ſhew that there was no neceſſity for producing it, becauſe that paper only went to the queſtion in what ſhape the eſtimates ſhould be laid before Parliament. It was only a communication with a view to form a plan; which plan of itſelf could have no authority before it received the ſanction of Parliament.

Mr. Sheridan ſaid, he had not heard any thing like a reaſon why the circular letter to the Lords Lieutenants of counties ſhould not be laid before the Houſe. There was no time to be loſt on ſo important a ſubject as that he was alluding to. That there ſhould even have been a propoſition from the Crown to levy money on the people in any manner, under any pretence whatever, without the expreſs conſent of the Houſe of Commons, he muſt own excited his aſtoniſhment; and therefore he gave notice that he ſhould have a motion to make on this ſubject on Monday the 24th.

Mr. Baker ſaid, that both plans and eſtimates had been handed to the different grand juries.

The Chancellor of the Exchequer ſaid, notice having been given of a motion upon the ſubject, he would not then enter into a diſcuſſion of the legality of raiſing voluntary ſubſcriptions in time of war, and applying them to the pay of the army or navy; but he would venture to ſay, that innumerable inſtances

ſtances had occurred, in which money ſo raiſed had been applied to the payment of troops, the raiſing of which had been previouſly ſanctioned by Parliament, which was all that was meant to be done in the preſent inſtance.

Mr. Taylor wiſhed expreſsly to know if it was the copy of the order of Council ſent to the different Lords Lieutenants that he refuſed.

The Chancellor of the Exchequer anſwered, that his Honourable Friend had moved for certain papers which he thought it his duty to oppoſe.

Mr. Sheridan then gave notice of a motion for thoſe papers on Monday the 24th.

PAPER DUTY.

On reading the report of the Committee on the Bill for impoſing an additional Duty on Paper,

Mr. Brandling wiſhed that the Bill could be delayed for a few days, having received inſtructions from his conſtituents to ſtate, that the duty impoſed on the lower claſs of paper would amount, in point of fact, to much more than the ſum propoſed by the Chancellor of the Exchequer, and that it would prove extremely oppreſſive. The ſum it was given for was 70,000 *l.* whereas it had been ſtated to him that it would raiſe three times that ſum. If this was a fact, he was ſure the Chancellor of the Exchequer would have no objection to lowering the duties, ſo as to produce only the ſum wanted. He would not undertake himſelf to vouch for the truth of this aſſertion; but he thought it would be but fair that his conſtituents ſhould have an opportunity of proving what they alledged, if they could: And for that reaſon he moved that the Bill be recommitted.

The Chancellor of the Exchequer ſaid, that, from all the information he had been able to collect from revenue officers, manufacturers, and others, the truth appeared to be ſo widely different from the ſtatement of the Hon. Gentleman, that he had great reaſon to apprehend the Hon. Member was miſinformed. The difficulties and fraud which occurred in the former mode of laying on this tax, had induced him to adopt the preſent mode, which he underſtood would about double the former tax, and no more; if however the tax ſhould be more productive, he would be very well pleaſed, and no perſon knew better than the Hon. Member, how much the neceſſities of the times demanded an increaſe of revenue. From the length of time that the Bill had been before the Houſe, and the preſſure of the buſineſs of the revenue, he thought himſelf bound to reſiſt any further delay in the buſineſs, and therefore to oppoſe the recommitment.

Mr.

Mr. Brandling ſaid, he had ſtated no more than his conſtituents had directed him to ſtate: He could not call in queſtion their ſtatement of a fact, without further information on the ſubject: All he wiſhed was, that his conſtituents might have an opportunity afforded them of ſending up to him an account of the duties as they had ſaid they would operate.

The Speaker ſaid, that there were other modes of diſcuſſing the queſtion, beſides that of recommitting the Bill. It might be moved that the propoſed duties might be lowered; or at any future ſtage of the Bill, that the debate ariſing on that ſtage might be adjourned.

Sir Matthew White Ridley pointed out many objectionable parts of this Bill as they appeared to him. He propoſed modes of alleviating the hardſhips which the Bill tended to create, by diſtinguiſhing the different claſſes of paper by the water mark, by means of certain drawbacks, and by taking the duty *ad valorem*.

Mr. Burdon ſaid, he had taken ſome pains to inquire into the ſubject, and he had reaſon to think this an unequal, unjuſt, and oppreſſive duty, and ſuch as was by no means conſiſtent with the diſcretion and ſound policy for which the Chancellor of the Exchequer's conduct was ſo eminently diſtinguiſhed. In the preſent caſe he ſtated, that on thick and thin poſt, which was chiefly uſed by the rich, there would be no more than a duty of 13 or 14 per cent. and on common printing paper, and whited brown paper, the duty amounted to 50 per cent. He thought alſo, that beſides laying a heavy duty on the lower orders of the people, which ſhould as much as poſſible be avoided, the duty would alſo, in point of fact, injure and diminiſh the circulation of general intelligence all over the kingdom; a thing that ought to be deemed ſacred.

Mr. Roſe admitted, as he had done on a former day, the hardſhips which the Bill would occaſion; but maintained that they were unavoidable, unleſs known and palpable frauds of the revenue were to be tolerated. Mr. Roſe ſaid, it was highly neceſſary, for the ſake of the revenue, that the Bill ſhould be no longer delayed.

Mr. Sheridan ſaid, that, from what he had heard, it was clear to his mind that the Bill ought to be recommitted. In its preſent form it did not appear likely to anſwer any good purpoſe to the revenue. Indeed, Bills of this kind were almoſt always paſſed through the Houſe without receiving the degree of attention that was due to them; and he hoped to ſee the day when that negligence ſhould no longer be ſuffered, and when every revenue bill whatever would be printed; for there were none which required more inveſtigation. It appeared extraordinary,

it: Not merely by a ſupply of all articles of immediate exigence for military ſervice, but by the uniform tenor of a wiſe and beneficent adminiſtration, which uniting the affections of thoſe who were ſubject to it, and the confidence of the neighbouring powers of Indoſtan, had inſpired them with a firm reliance on the mild protecting influence of the Britiſh government, and a full aſſurance that ſucceſs would attend that war which you conducted.

"The date of the order by which alone I am authoriſed now to addreſs your Lordſhip, precludes the conſideration of ſubſequent ſervices, which are freſh in the memory of every one; but I may be allowed to expreſs the firm perſuaſion I feel, that the precedent of repeated thanks which diſtinguiſhed the beginning of this century will be renewed in the cloſe of it; and that the debt of public gratitude to your Lordſhip will continue, ſtill paying, ſtill to owe."

To which his Lordſhip replied,

"My Lords,

"The honourable teſtimony of your Lordſhips' unanimous voice that my conduct has merited the eſteem of my countrymen, and has promoted the honour and intereſts of Britain, is a circumſtance ſo highly gratifying to my feelings, that whilſt I live I ſhall reflect upon it with a degree of ſatisfaction that it is not eaſy for me to expreſs.

"It has likewiſe afforded me great pleaſure, that your Lordſhips have declared your approbation of the ſervices of my worthy gallant friends Sir William Medows and Sir Robert Abercromby, and of the officers and ſoldiers who were employed under my command during the late war in India; as it was by their meritorious and unwearied exertions that I was enabled to bring the conteſt to ſo honourable and advantageous a termination.

"I am truly ſenſible of the obliging and flattering manner in which the favourable ſentiments of the Houſe were communicated to me, and I requeſt that the Noble Lord will accept my warmeſt acknowledgments."

His

His Royal Highneſs the Duke of Clarence moved, That the proper Officer do lay before the Houſe, copies of ſeveral papers relative to the Slave Trade; which were ordered.

Adjourned.

HOUSE OF COMMONS.

MONDAY, *March* 24.

The reſolutions relative to ſmuggling Tobacco were reported, and a Bill ordered.

The Houſe in a Committee went through the Alien Bill.

The queſtion, that there be laid before the Houſe a liſt of all foreigners who have been ordered to quit the kingdom under the powers of the Alien Act, paſſed in the negative.

Ordered, an Addreſs to the King for a Copy of the Letter, dated Whitehall, March 14, addreſſed to the Lords Lieutenants of counties; together with the plans and other papers incloſed therein. To be preſented by Privy Counſellors.

An Account of the revenues of the Eaſt India Company, and alſo an Account of Computations. Ordered.

The Paper Duty, Montgomery and Haſlenden Canals, and Rochdale Road Bills, were read a third time and paſſed.

The report of the Greenland Fiſhery Bill was brought up, and agreed to, and the bill was ordered to be engroſſed.

INDIA BUDGET.

Mr. Secretary Dundas moved, That there be laid before the Houſe, Papers containing the accounts relative to the income and expenditure in our ſeveral poſſeſſions in India. Ordered. Likewiſe gave notice, that he would, on Monday 31ſt, make his annual ſtatement of the ſituation of our affairs there, in conformity to the ſtatute in that caſe made and provided.

NAVY BILLS.

The report of the Bill for regulating the payment of Navy Bills, having been brought up and read, *The Chancellor of the Exchequer* brought up a clauſe, providing, that all Navy Bills iſſued on or after April 5th, 1794, ſhould be paid within the courſe of fifteen months after their date. The Chancellor of the Exchequer obſerved, that Navy Bills had been funded up to the 31ſt of laſt March; but that a queſtion had ariſen on a doubt entertained by thoſe who were concerned in Navy Bills, as to what was the ſituation of thoſe bills that had been iſſued between the 31ſt of March 1793, and the 5th of April 1794, and for which no proviſion was made by this Bill. He ſaid it was an eſtabliſhed rule, that all Navy Bills ſhould be

paid according to their date; and therefore as all bills iſſued on the 5th of April 1794, would be paid in 15 months after that time, in conformity to the clauſe juſt brought up, all bills alſo muſt be paid that were iſſued before that period. This, he ſaid, he thought proper to ſtate, in order to remove any doubt that might be entertained on the ſubject. Having made this general regulation as applicable to all Navy Bills, it was needleſs to ſpecify any of the claſſes. This clauſe was read, agreed to, and the Bill was ordered to be ingroſſed.

ALIEN BILL.

Mr. Thompſon roſe, he ſaid, in conſequence of the notice he had given, in order to call the attention of the Houſe to the ſubject of the Alien Bill, and to bring forward the motion which he had announced on a former day, and which he deemed of particular conſequence upon the preſent occaſion. In doing this, he truſted that he ſhould be free from the imputation of party motives, ſo commonly attributed to every propoſition that came from that ſide of the Houſe: By the motion he ſhould have the honour to ſubmit to the Houſe, he ſaid, there was no intention to interrupt the paſſing of the Alien Bill then before the Houſe. It would, however, be neceſſary to advert to the circumſtance and the period under which the Bill was paſſed; a Bill which, in his opinion, ſerved moſt effectually to open the eyes of the nation with reſpect to the ſyſtem of political deception that had been practiſed on them.

The great queſtion of Parliamentary Reform had been previouſly agitated in that Aſſembly under the ſanction of the people, and with the approbation and countenance of ſeveral popular characters. Various ſocieties, for the ſupport of that meaſure, had been formed throughout the kingdom, when miniſters immediately thought proper to combat it; and it was accordingly combated, not only by Treaſury newſpapers and Gazette proclamations, but by every method they could poſſibly deviſe. All who ſupported the queſtion of Parliamentary Reform were vilified by the names of Democrats and Jacobins, an anxious wiſh for liberty was diſgraced by the name of a deſire of anarchy, and to demand an equal right of repreſentation was conſtrued into an intention to provoke rebellion. When the French overturned that ſyſtem of government under which they had long groaned, and which was univerſally allowed to be inſufferably cruel; when they hurled Louis XVI. from the throne of deſpotiſm, they were alſo ſaid to meditate the martyrdom of George III. and every Sovereign in Europe. The firſt they had accompliſhed, and put it out of the power of all the allied powers upon earth to replace it; but

but the latter, as he believed they never did intend, ſo, if they ſhould intend it, he believed they never would accompliſh, becauſe the Engliſh monarchy was placed on too ſecure a baſis to be ſhaken, the loyalty and affections of the people. Adminiſtration might be diſliked, but the conſtitution was beloved and revered. Miniſters, therefore, perceiving every day that they were more and more diſliked, and aware that they could not be ſafe if they perſiſted in the plans they had adopted, with haſte began to fortify the Tower and embody the militia; and though the people wiſhed to preſerve their conſtitution, the trumpet of alarm was ſounded, its ſtandard was erected, many reſorted to it, and the moſt extraordinary coalitions immediately were formed. One Right Hon. Gentleman, who had often before laughed at the lace and ſtippery of miniſters, ſuddenly became their admiring enthuſiaſt, and like all converts was one of the moſt zealous and moſt eager to ſupport their cauſe: Some of thoſe who had been moſt in the habits of exclaiming againſt the confidence claimed ſo amply by the miniſtry, and others, Peers as well as Commoners, who had been moſt active in condemnation of all their meaſures.

A Learned Gentleman in Scotland, deſirous of making himſelf conſpicuous, followed the example of one of his learned brethren in England; and though the country was in general moſt loyally and peaceſully diſpoſed, terrified it with the outcry of ſedition. Proſecutions were inſtituted, and the ſentences and rigorous perſeverance in their ſeverity in its fulleſt extent were notable inſtances of the lenity of the Scotch court of criminal law, and the candour and temper of Britiſh miniſters. A Noble Lord, upon the ſame authority, took poſſeſſion of the Great Seal of England, to which he would moſt kindly have joined in union that of the ſiſter country. Another Noble Lord had thought a blue ribband preferable to a green one; while an Honourable Baronet conceived a commiſſary's honours and emoluments at Toulon ſuperior to any cordial and diſintereſted attachment. The Alien Bill was introduced under ſuch circumſtances and at ſuch a moment; a Bill that had properly been called the moſt novel and extraordinary ever offered to the conſideration of that Houſe; a Bill, which, in the words of an Hon. Friend of his, was in its effect a temporary ſuſpenſion of that birth-right of Engliſhmen, the Habeas Corpus Act, which ought never to be ſuſpended, and which, ſooner or later, he hoped to ſee miniſters reſtore.—[*Mr. Thompſon* was proceeding in his exordium, when ſeveral Gentlemen on the oppoſite ſide called him to order.]

By this Bill the ſole authority became veſted in the hands of the executive government, and the people were told that they

were to truſt to the miniſters' diſcretion and humanity. The diſcretion and humanity of miniſters had been exemplified, as he had juſt ſtated, in their treatment of Meſſrs. Muir and Palmer, and their refuſal to liſten to a propoſal to intereſere mercifully in the caſe of La Fayette.

The Right Hon. Secretary for the Home Department had, on a former occaſion, complained of his incapability to diſcharge the duties of the various ſtations he had undertaken; for his part, he moſt ſincerely wiſhed, that any other of his duties were to be performed by deputy than that annexed to this Bill, under the operation of which, many aliens, whoſe reſidence for a long ſeries of years in this country had eſtabliſhed an extenſive trade and peculiar connexions, were ordered on the ſudden to abandon all their views in life, to leave their friends, and to depart the kingdom; not upon conviction of guilt, but upon mere report and conjecture. Mr. Thompſon lamented that ſuch an inſtrument of ſuch arbitrary power and oppreſſion ſhould be placed in the hands of any magiſtrate. He remarked that the aliens who had been ordered to quit the kingdom were not the natives of France only, but of other countries, and were conſequently ſubjected to ſtill greater evils. Whenever a man formerly breathed the air of England he was nominated free, but that axiom prevailed no longer. One truth, however, is ſtill manifeſt, that they who have the power of executing what they pleaſe, would ſoon forget to execute only what they ought; in purſuance of the latter principle miniſters had ordered ſome perſons to leave the kingdom whom they ought not to have driven away. And various other caſes had occurred which were repugnant to the principle on which Parliament had paſſed the Bill. In all this, however, he wiſhed to be underſtood as not inſinuating any thing to the prejudice of the Secretary of State (Mr. Dundas): The truth was, that Right Hon. Gentleman had only nominally the execution of the Bill, the whole of it being unavoidably, and almoſt entirely, left to ſubordinate perſons, who had frequently abuſed the truſt repoſed in them. Theſe facts he would undertake to prove, if the Houſe ſhould agree to his motion, which was, "That "there be laid before the Houſe a liſt of all foreigners who have "been ordered to quit this country under the power of the Alien "Bill."

Mr. Whitbread, jun. ſeconded the motion.

Mr. Secretary Dundas looked upon the motion before the Houſe as neither more nor leſs than propoſing a queſtion, Whether the Alien Bill ſhould, or ſhould not, be continued? The principle of that Bill was confidence in the executive government of this country, that they would not order any foreigner to quit it without having ſome ſufficient and ſtrong reaſon

reaſon for it. If that confidence, which was the foundation of the Bill, ought to be withdrawn, there ought certainly to be an end of the Bill, and then the motion would perhaps be right enough; but if it appeared to the Houſe that ſuch confidence ought on grounds of expediency and policy to be continued, he ſaw many reaſons why the liſt juſt moved for ſhould not be granted. It had been ſaid, that the Bill had, in many inſtances, been too rigorouſly executed. He believed, that if the Hon. Gentleman who brought this matter forward thought ſo, he was pretty nearly, if not altogether, ſingular in that opinion; for one complaint of that ſort he had heard twenty of an oppoſite nature, and ſtating inſtances of too much indifference and lenity. It was, however, impoſſible for him to mention any particulars about the merits of any caſe whatever under the power of the Alien Bill, or to aſſign any reaſon for ſending any one perſon away from this country, becauſe, as he had before ſtated, the whole of the power of that Bill was given under a confidence that the power would not be improperly uſed, and that the circumſtances which called for its exerciſe neither ought to be nor would be diſcloſed. Another reaſon appeared to him to be a ſtrong one againſt complying with the motion: The liſt required by the motion would publiſh to the world at large the names of all thoſe whom the executive government of this country had thought dangerous perſons to live here. That would be a hardſhip on ſuch perſons, which he ſaw no reaſon to inflict, as it might be the means of rendering their ſituation in other countries extremely diſagreeable, and perhaps dangerous. Why ſhould we do ſo? Was it not enough for us to ſerve ourſelves, and leave other ſtates to purſue their own meaſures as they might think fit on ſuch matters? He ſaid, that having thus far explained himſelf, he would decline following the Hon. Gentleman into the other topics which he had brought forward, and would content himſelf with objecting to the motion, as uſeleſs in its operation, and unjuſt in its effects.

Mr. Sheridan having deſired the queſtion to be read, obſerved, that the Right Hon. Gentleman who oppoſed the motion (whether he attended to it or not, he could not pretend to ſay) did not ſeem properly to underſtand the meaning of it; becauſe the Right Hon. Gentleman had argued as if they were about to diſcuſs the motives which operated in their having ordered each individual away; whereas he agreed on the propriety of concealing the circumſtances of each particular caſe, and of giving miniſters credit for their motives in acting under this Bill: Such obſervations would be better when the motion ſhould be followed up by ſomething that ſhould call for

for that ſort of vindication: Which certainly was not the caſe at preſent. He proceeded to ſhew that the confidence mentioned by the Secretary of State as the baſis of the Bill, might be abuſed by inferior agents and officers; indeed, he ſaid, he had ſome reaſon to think ſuch was the caſe, and had waited on the Right Hon. Gentleman, from whom he was happy to have an opportunity of acknowledging, that he had experienced the greateſt attention and civility, as well as redreſs, to the objects for whom he interfered, and for which he begged the Secretary of State to accept his perſonal thanks. This, however, proved that abuſes have taken place, and might be repeated; to prevent which, the liſt moved for promiſed at leaſt to have ſome effect. He could not agree with the Right Hon. Gentleman, that it was improper to publiſh the names of thoſe whom we thought too ſuſpicious in character to remain with us: This was paying a bad compliment to our allies (which, by the way, were very nearly all Europe) in the war againſt France: But this proved that we had not made the cauſe ſo common a cauſe as was once imagined, and he was extremely glad to hear that the fact was ſo. The abuſe of power under the Alien Bill, he muſt again repeat, ought to be an object of inveſtigation, in order that ſimilar inſtances of abuſe might be avoided in future. Some perſons had been ordered away as ſuſpicious characters, who had, on further inquiry, been found to have been ſubjects good enough to be naturalized by Act of Parliament. He did not wiſh this queſtion to be puſhed to a diviſion, but he hoped the diſcuſſion would be followed by one good effect at leaſt, *viz.* that miniſters would be more cautious than they had been as to the orders they give for perſons to quit the kingdom.

The motion was put, and negatived.

SUBSCRIPTION FOR RAISING TROOPS.

Mr. Sheridan, in purſuance of the notice he had given on the preceding Friday, proceeded to call the attention of the Houſe to the ſubject of raiſing troops in this country by ſubſcription. It would not, he ſaid, be neceſſary for him to enter into any arguments at preſent on the general queſtion, as he had learnt, ſince he came into the Houſe, that the Right Hon. Chancellor of the Exchequer had made a good uſe of the interval that had elapſed between the notice and the motion intended to have been made that day, and changed the determination he had expreſſed upon a former night, and was ready to grant the Papers required. Indeed, he could not conceive but that the Hon. Gentleman muſt, upon conſideration, ſee the utter impoſſibility of withholding thoſe Papers.

In

In this the Right Hon. Gentleman had acted wisely and well: He had benefited by the lesson of prudence given to him on another occasion (the Petition of Mr. Palmer), and therefore nothing more need be said on that subject, and more particularly as this matter must be discussed hereafter. But it appeared to him necessary to say a few words on points which arose out of this question, and were very materially connected with it. Equally aware, and regardless of the imputations so liberally bestowed upon all who stept forward in opposition to ministers, of a wish to interfere improperly with Government, and to endanger the safety of the kingdom; he trusted, whenever opportunity should offer, an occasion which he most seriously deprecated, that they would be found as hearty in the support of the realm, as any set of men whatever. He wished to see the kingdom, as he hoped and trusted every man in it sincerely did, put into a state of defence equal to its danger, and the more so, if the rumour was true, so confidently circulated and so much credited, that we had lost the aid of one of the great powers in the grand alliance; it was stated, that the great Monarch alluded to, had actually withdrawn himself from the common cause against France. Ministers, it was generally said, had been shamefully negligent with regard to the safety of our coast; for at this very moment, public report had it, that a party of the enemy had landed on our coast, and had committed devastations in Northumberland, and that the Mayor of Newcastle, upon being applied to for assistance to repel the invaders, had stated, that he had none to spare. Notwithstanding all the obloquy cast on the Gentlemen on that side of the House by certain interested persons, they would, he had no doubt, be found, as he had before stated them to be, as eager to unite in the most earnest desire of preserving the interest of the country as well, perhaps better, as those who talked so much of their patriotism; and who, in truth, seemed to recede from duty, as they advanced in boasting of the manner in which they performed it.

Having said so much to prove that ministers had not been remarkably careful of our coast, he must say a word or two on the manner they had endeavoured to proceed in open violation of the constitution. He did not mean at that moment to debate the subject at length, because another day was to be occupied by the discussion; but he would say, that an application from ministers to any body of men for the raising a voluntary contribution towards supporting a military power in this country, was wholly and perfectly illegal and unconstitutional. At that moment a description of persons were deliberating on the best mode of raising men, and of paying

them when raiſed, independent of the Parliament of the country; and this too not merely as a voluntary act of their own, but on the expreſs requiſition of the Secretary of State; and this had been followed up by an advertiſement in the public papers, worded in a manner that ſeemed to indicate that thoſe who did not join it, had views hoſtile to the conſtitution of the country. He read from ſome of the newſpapers ſeveral advertiſements, and particularly one for a meeting at Kingſton, in the county of Surrey, on the 27th day of the month, whereby the Lord Lieutenant, High Sheriff, Grand Jury, &c. were called upon to conſider of the beſt plan for the internal defence of the country. He might, and he dared to ſay he ſhould be told, that it was not the intention of miniſters to put theſe troops under pay, until the plan of raiſing them, and the mode of paying them, ſhould have received the ſanction of Parliament. But why was Parliament paſſed by in any ſtage of this very important buſineſs? Why did miniſters reſort to Lords Lieutenants and Grand Juries, inſtead of the Houſe of Commons; the only place to which they could legally and conſtitutionally apply upon the ſubject? Were he, for inſtance, to go to this Kingſton meeting, and aſk theſe gentlemen what they were about, they would probably anſwer him, "You are a mere Member of the Houſe of Commons; you know nothing of this buſineſs as yet; when we have ſettled the whole of the plan, it ſhall be laid before you by the Secretary of State; he will explain what we determined upon; that is the readieſt way." And after that the miniſters would have nothing more to do than bring in a Bill of Indemnity for raiſing troops, and paying them, without the interference of the Houſe of Commons. He ſhould then ſay no more on the ſubject: But would only move, "That an humble Addreſs "be preſented to his Majeſty, praying that he will be graci- "ouſly pleaſed to give directions that there be laid before this "Houſe a Copy of the Letter dated Whitehall, the 14th of "March, to the Lords Lieutenants of ſeveral Counties, to- "gether with all Plans and other Proceedings propoſed there- "on."

Mr. Martin ſaid, that ſome time ſince he had declared, that he had made up his mind never to be ſurpriſed at any thing that ſhould be done by the preſent adminiſtration. After the numerous and extremely ſevere puniſhments that had been inflicted on ſeveral individuals for avowing political opinions, after the general ſyſtem of erecting barracks all over the kingdom, after the introduction of foreign troops without the conſent of Parliament, this meaſure appeared to him to crown the whole.

Mr.

Mr. Weſtern felt himſelf under the neceſſity of declaring the conviction of his mind upon this very important ſubject. He ſaid the conſtitution, in its vital principle, was attacked, was violated, and the dignity of the Houſe of Commons groſsly inſulted, by the meaſure under the conſideration of the Houſe; and for the further diſcuſſion of which the motion before them was a material and a leading ſtep. For his part, he muſt confeſs his aſtoniſhment was excited, and his indignation rouſed, when he was told that the executive Government of this free country had made application to the Lords Lieutenants of the counties, ſtating to them, a neceſſity of raiſing a military force, of which the Houſe of Commons was kept in profound ignorance, of calling upon individuals to open their purſes to ſupport a military plan, no part of which had been previouſly ſubmitted to their Repreſentatives in Parliament. Did the Houſe reflect on what this might lead to if not reſiſted and oppoſed? If the executive Government could raiſe ſupplies under the name of benevolences for ſervice, ſolicited or unſolicited, ſupplies could eaſily raiſe armies, and before armies all our liberties muſt fall. Had they forgotten, that on the power of raiſing ſupplies depended their very exiſtence? Had they forgotten that the nature and eſſence of Parliament altogether were founded on the power they poſſeſſed of concerting meaſures offenſive and defenſive for the ſafety of the country, and to give the Throne advice in ſuch caſes; and alſo to have excluſive dominion over the purſe of the Public, and to direct the means of raiſing money for the ſupport of all public plans whatever? Was it to be endured that a miniſter ſhould tell the Houſe of Commons, "I will not ſtate to you what I intend to do in a time of great emergency; I ſhall ſend down my plan to the Lord Lieutenants of different counties; I ſhall require them to recommend my ſyſtem to the Grand Juries, and between us the buſineſs ſhall be made up; and at my leiſure I ſhall ſhew you what we have agreed upon?" This, Mr. Weſtern ſaid, extraordinary as it was, when it was placed in its true point of view, was certainly the amount of what the preſent plan might lead to, and then the whole of the internal defence of the country would depend not upon the Great Council of the nation, as the conſtitution deſigned, but upon the extenſive authority ſupported by individuals. If this were to be the caſe, was it not obvious that the Houſe of Commons would be robbed of all its authority? Could any thing be more plain than that if the executive Government could raiſe ſupplies by any means whatever, without application to the Houſe of Commons, there was an end at once of all the object of repreſentation of

the people, ſince the repreſentatives were ſtripped of the only power that made them formidable to the Crown in ambitious projects, and uſeful to the people? The King, by purſuing ſuch a practice, might by and by raiſe an army, and maintain it, without any power remaining to the people to check it; that army might be employed to the complete deſtruction of their liberties; and what would the people have to reſort to as an effectual means to oppoſe meaſures ſo important to their deareſt intereſts? It was too alarming to think of. He might be told that there need be no alarm felt on the conſtitutional point, for that this was only part of a plan, and that the whole of the meaſure, when matured, ſhould after this be ſubmitted to the Houſe. No man, in his opinion, could be ſatisfied with ſuch a promiſe, without ſacrificing the rights of his conſtituents. In fact there was no attending to it for an inſtant without obſerving that it was pregnant with the moſt alarming danger. Did the Houſe ſee the ſituation they were in? Suppoſing they aſſented to this on the principle of confidence, what was their ſurety that they would not be diſſolved tomorrow? Had the Houſe received the leaſt previous intimation that ſuch a ſtep as this was intended to be taken? None whatever. The whole of this buſineſs appeared to him to be exceedingly alarming; and he lamented that when this application came from the executive authority to various claſſes of the people, they did not return a conſtitutional anſwer: "Go to our Repreſentatives with your Plan, and let them decide upon its propriety, before we are called upon to infringe their province." He gave an account of the proceedings had before the Grand Jury in Eſſex, where he attended, and where he did every thing in his power to awaken them to a ſenſe of the danger to the conſtitution; but after the matter was debated, the majority decided, not as he could have wiſhed, but, however, not ſo indiſcreetly as to approve altogether of the meaſure; they agreed to deliberate on the ſubject, and to give an anſwer in general terms, without pledging themſelves to any thing ſpecifically. Mr. Weſtern ſaid, he ſhould trouble the Houſe no further; he could only ſay he never heard of a meaſure that appeared to him to be more clearly unconſtitutional, or more dangerous, than the preſent.

The Chancellor of the Exchequer ſaid, he would not detain the Houſe a ſingle moment, becauſe any diſcuſſion or argument on the principle of the meaſure would be much more uſefully or effectually conſidered when the Houſe was in poſſeſſion of the paper. He only wiſhed to remind the Houſe of the principle he had ſtated before, and that principle was, that voluntary contributions of the ſubject for the purpoſe of aſ-

ſiſting

ſiſting levies, thoſe levies receiving the ſanction of Parliament, was a meaſure perfectly legal, in his opinion, and perfectly conſonant to precedent and practice, on repeated occaſions, on which the zeal of the ſubject had been manifeſted in moments of national emergency.

The Hon. Gentleman who had juſt ſat down, had ſaid, the meaſure had been adopted without any previous communication or intimation to the Houſe that ſuch a meaſure was in agitation. He begged leave to ſay, that ſtatement was incorrect, becauſe the circular letters alluded to in the motion, were only intended to obtain every practicable information on the ſyſtem in view, ſo as to digeſt it into a regular ſhape, in order to ſubmit it to Parliament for their judgment, and to obtain the ſanction of the Houſe for the meaſure of internal defence, and to take their opinion on the probable means of ſupporting that meaſure. When he brought in the Bill for augmenting the Militia, he had expreſsly ſtated, that a voluntary contribution of the ſubject to provide for an armed force, ſanctioned by Parliament, was both legal and conſtitutional, and in fact had often in different periods of our hiſtory been practiſed in this country. He had alſo on that day ſtated, that further meaſures might be found neceſſary, beſide the augmentation of the militia; but that the plan was not ſufficiently digeſted to ſubmit to the Houſe.

He was more ſurpriſed that Gentlemen ſhould complain of want of information on this ſubject, as, when the Militia Bill was propoſed, ſome had expreſsly declared, that though they agreed to that augmentation, yet they ſhould oppoſe the other plan alluded to, namely, Independent Volunteer Corps. He concluded with aſſuring the Houſe that a Meſſage was to be delivered to that Houſe the next day from his Majeſty on the ſubject.

Mr. Fox was decidedly of opinion that the Hon. Gentleman (Mr. Weſtern) had been ſufficiently correct, when he ſtated that no proper intimation had been given previouſly; but ſuppoſing that he had not been correct, ſuppoſe that he was out of the Houſe, or ſuppoſe that he ſhould have been ſo deficient and ſo wanting in taſte not to give that attention to the Right Hon. Gentleman's ſpeeches which he ſo earneſtly deſired; in what he had aſſerted, he would be juſtified, becauſe it was not certainly an intimation of which he was bound to take notice, or to report to his conſtituents. Mr. Fox confeſſed that he himſelf was preſent, that he had heard the debate, though not the Right Hon. Gentleman's ſpeech, from which he had underſtood that ſome meaſures were to be taken, but not ſuch as were contrary to precedent and the

practice of the Houſe. He held the ſame opinion with the minorities of 1778, both of Lords and Commons; but even had he at that time belonged to the majority, he ſhould not certainly conſider it a precedent. The whole defence on that occaſion was, that thoſe contributions were purely voluntary and *bonâ fide* ſpontaneous; that there had not been a hint from the Crown, given by any of his Majeſty's ſervants; and that there was nothing that could be conſtrued into an application for money in the moſt remote manner.

Mr. Fox ſaid, he had before been of opinion, that the Right Hon. Gentleman merely meant to conſult the counties, and take their advice upon the meaſure. But it now turned out, that there had been a direct official application from the King's Secretary of State; and it was a maxim univerſally maintained, when a Secretary of State wrote a letter of that kind, though he did not ſay, "I am commanded by his Majeſty, &c." it did imply a command, and that the Secretary of State was acting under authority and in obedience to ſuch a command. He was, therefore, clearly to underſtand, that the King had ſent his mandate to different parts of the country, to aſk, without the conſent of Parliament, who would, and who would not, contribute what was neceſſary for the defence of the country. He thought ſuch a proceeding ſo unconſtitutional, that he hoped they ſhould ſoon have an opportunity of diſcuſſing the buſineſs at length. Mr. Fox ſaid, he much doubted whether the fear of external danger had not expoſed us to ſtill greater from within, becauſe he ſaw in the advertiſement of the meeting called in Surry, by Lord Onſlow and the Sheriff, that the gentlemen of the county were called on to contribute, not without an inſinuation, or rather threat, that thoſe who refuſed would be conſidered as enemies to their country. Parliament was now actually ſitting; and the Repreſentatives of the People of England had been convened expreſsly to conſider whether they would, or would not, comply with the requeſts of his Majeſty; and yet his Majeſty, by his Secretary of State, was levying money on his ſubjects without the conſent of that Houſe, although the conſtitution, by explicit ſtatutes, had expreſſed, that money ſhall not be given to the executive power, unleſs voted by Parliament; and after the proceeding had taken place, the Parliament is to be called on to indemnify miniſters for an act which had never received their concurrence. Mr. Fox profeſſed a readineſs to meet the point fully in argument, and had no doubt, that in part of the caſe he ſhould ſucceed, whether the fear which had taken poſſeſſion of the Houſe, reſpecting the fate of the war, might not cauſe them to be leſs alert in aſſerting their rights againſt the illegal

illegal practice of miniſters, as this conjecture was a queſtion, on the iſſue of which his expectations were not quite ſo ſanguine.

Mr. Francis ſaid, he was preſent at the debate, on a former day, alluded to by the Chancellor of the Exchequer, and had liſtened with attention to every word he had ſaid on that occaſion, concerning the extreme danger the country was actually in, and the urgent neceſſity of reſorting to extraordinary meaſures of defence, upon which he himſelf, at the time, had offered ſome remarks. He confeſſed, it was true that the Right Hon. Gentleman had then ſtated an intimation to the Houſe, that it was in the contemplation of Government to propoſe a very great augmentation of the militia; but Mr. Francis took upon him to aſſert, from the moſt clear and poſitive recollection, in which he was abſolutely ſure that he could not be miſtaken, that, as to the point now in iſſue, *viz.* whether he had ſtated an intention of applying to the bounty or loyalty of individuals to raiſe money by private contribution for the purpoſe of raiſing or paying the militia, or for any other object whatſoever, the Right Hon. Gentleman had not ſaid one word, or ſuggeſted the moſt diſtant intimation; that, conſequently, his anſwer to the objection offered by Mr. Weſtern was not in point, and fell to the ground. As to the ſurpriſe and aſtoniſhment expreſſed by an Hon. Gentleman near him (Mr. Martin) at the unconſtitutional meaſures brought forward from day to day by the Chancellor of the Exchequer, he had ſeen too much of that Right Hon. Gentleman's principles and conduct to be much ſurpriſed at any attempts of the kind coming from that quarter. But he confeſſed he was ſurpriſed at the manner in which this laſt meaſure was attempted to be brought about, conſidering the whole tranſaction in its form to be as ſuperfluous and unneceſſary as it was illegal and dangerous in its example and effect. Why ſhould the King's miniſter reſort to theſe irregular courſes to levy armies, or raiſe money to pay them? What occaſion had he to paſs by the Houſe of Commons? Did they ever make a difficulty? Did they ever refuſe? Were they not at all times as ready to grant, as he could be to aſk? Was he not ſure of their ſupport? Was it not an affront to the Houſe to queſtion their readineſs to ſupport Government in every thing neceſſary and proper? Then where was the neceſſity of applying for money to any other perſons? What uſeful purpoſe was it to anſwer? "Yes, Sir, it will anſwer a purpoſe which this Houſe ought to reprobate with ſevereſt indignation." In the firſt place, it created a precedent againſt the rights of the Houſe of Commons; that was ſomething. The door was open; the Right Hon. Gentleman had only to knock and be admitted. Why

ſhould

ſhould he prefer going in at the window? The firſt would have been the courſe which an honeſt man would have purſued; the other was the act of a robber and an aſſaſſin. But it did more; it enabled the miniſter to draw lines of diſtinction, and to ſow jealouſies and enmities among his Majeſty's ſubjects; to mark one man out as a perſon of prodigious loyalty, if he contributed; the other as diſloyal or diſaffected, if he refuſed. With regard to himſelf, Mr. Francis ſaid, he ſhould ſoon have an opportunity of ſhewing that Right Hon. Gentleman how little he valued his power, his abilities, or his artifices. A meeting of the gentry and other perſons of property in the county of Surry, was advertiſed by the Sheriff to be held at Kingſton on Thurſday next: He was a freeholder of Surry, and was determined to attend that meeting on purpoſe to make himſelf that *marked man* which the meaſure had in view; and to diſtinguiſh himſelf, to the utmoſt of his power, by his oppoſition to the treacherous and pernicious ſchemes of the King's miniſter, directed, as he ſaw they were, to the utter and inſtant ruin of the conſtitution.

The Chancellor of the Exchequer ſaid, he did not mean to ſtate that he had given the Houſe any information of a ſubſcription, but that ſome mode was to be adopted for raiſing a certain force.

Mr. Taylor explained the ſort of impreſſion the ſpeech of the Chancellor of the Exchequer had made on his mind, when the Bill for augmenting the militia was opened; as alſo what he ſaid himſelf on that ſubject. There certainly was no intimation given of any thing like the meaſure that followed.

Sir James Sanderſon was of opinion, that ſuch a meaſure as the preſent ſhould have originated in Parliament, as all meaſures of Ways and Means, and Supply, and all grants of money, uſually and invariably did; he nevertheleſs ſaid, that when the paper was produced, he had no doubt but he ſhould hear arguments drawn from precedents, and from the ſtate of the country, which might juſtify extraordinary meaſures. It had been ſaid, the Chancellor of the Exchequer had given no previous intimation of this meaſure. He, for one, owned that he thought an intimation had been given, and that an Hon. Member (Mr. Vanſittart) had expreſsly ſtated that this meaſure was taken into conſideration by the county of Berks; but he entertained no doubt that when the circumſtances came before the Houſe, the miniſter would aſſign ſufficient reaſons for the juſtification of his conduct.

Mr. Serjeant Adair ſaid, he was ſorry that the queſtion had been brought forward in the manner it had been. Were he obliged to give an opinion upon the legality of ſubſcriptions for levying

levying any military force within the kingdom, without the previous ſanction of Parliament, he would ſay it was certainly illegal, becauſe it muſt be admitted, that if government ſhould actually *apply* any of the money raiſed by free and voluntary ſubſcription without the conſent of Parliament, it would be a fit object for the jealouſy and attention of the Houſe; but he ſaw nothing at preſent which required any meaſure to be propoſed. At this critical period, when the circumſtances of the times, and when mens minds, were conſidered, when men were ſtimulated by powerful and extraordinary motives of action, he could perceive no good conſequence which could flow from diſcuſſing and agitating abſtract queſtions. He conſidered the conduct of his Majeſty's miniſters on this occaſion to have been directed by the expediency of the moment, and not with any view of making dangerous encroachments. But he hoped means would be taken to render unneceſſary the propoſed diſcuſſion. As a Bill was ſhortly to be paſſed for the purpoſe of increaſing the militia, any clauſe in that Bill, empowering perſons to ſubſcribe for the purpoſes thereof, would at once legalize the meaſure, and ſuperſede the neceſſity of agitating the preſent queſtion. He threw this out in order to avoid the further diſcuſſion of an abſtract ſubject, which only went to increaſe precedents, which were afterwards brought forward to ſupport meaſures very different from thoſe which gave them birth.

Mr. Grey ſaid, he was always ſorry to differ with the Hon. and Learned Gentleman, and particularly on queſtions which he conſidered to be of the greateſt importance. In this caſe he ſaw a very ſtrong neceſſity for diſcuſſing what the Learned Gentleman called the "abſtract queſtion," and that neceſſity aroſe from the conduct which his Majeſty's miniſters had followed, by firſt doing that which the Learned Gentleman allowed to be illegal, and then coming to what they ought to have begun with, namely, aſking the ſanction of Parliament. He was convinced that the only mode that could be adopted to heal the wound the conſtitution had received, would be by a reſolution of that Houſe, founded upon the order of Council, expreſſive of the illegality and impropriety of that meaſure. The neceſſity for ſuch diſcuſſions could not be made more manifeſt, than by an attention to the conduct of miniſters of late. They had erected barracks, and had landed foreign troops in this country, in a manner perfectly illegal: At the ſame time, ſo far were they from thinking a Bill of Indemnity neceſſary, that, after waiting to ſee if they would have the modeſty and propriety to bring one forward, it had been at laſt moved for,

from the ſide of the Houſe on which he ſat, and met with avowed oppoſition from them and their friends. In defiance of every attempt that could be made to juſtify theſe meaſures, and prevent them from becoming precedents, he could not help ſaying, that in his mind they were perfectly illegal.

When ſo much had been ſaid about the internal defence of the country, by augmenting the militia, and reſorting to means of raiſing other land forces, he wiſhed more attention was paid by the Admiralty to the naval ſtrength, and to the protection of the maritime counties in this kingdom. He adverted to letters received from the Mayor of Newcaſtle, ſtating, that three French privateers had landed their crews, and had committed ſeveral depredations on that coaſt, and carried off the ſheep and cattle from two different eſtates. And all the time that they had the command of that coaſt, ſuch was the negligence of the Admiralty, that there was not a ſingle ſhip of war from Shields to Leith, and ſo no protection to the trade on that coaſt.

Mr. Grey ſaid, there was one queſtion which had been particularly put by ſome Honourable Friends of his, and which had not yet received an anſwer from miniſters; it was reſpecting a rumour that prevailed every-where for ſome days paſt, and was received with every appearance of a truth: He meant this plain queſtion, Whether the King of Pruſſia had, or had not, withdrawn from the confederacy of the powers allied againſt France? and thus left us engaged in a deſtructive and expenſive war, after taking from us ſo eſſential a part of the ſupport which he was bound to give. He conſidered the whole of this queſtion as requiring, from its importance, a ſpeedy diſcuſſion: In hopes, therefore, that it would ſoon come before the Houſe, he would not then detain them longer.

Sir Matthew White Ridley confirmed the fact ſtated by Mr. Sheridan and Mr. Grey, relative to the French having landed in Northumberland, and plundered part of the coaſt. Sir Matthew read three letters from different perſons there, which further ſtated the anſwer of the Mayor of Newcaſtle to be as Mr. Grey had aſſerted. This Sir Matthew conſidered as a proof of neglect on the part of the Admiralty.

Mr. Brandling differed from the opinion that had been ſtated by his Hon. Colleague. No man lamented more than he did the circumſtance of a few ſheep and cattle having been taken away by the French; but was that a reaſon for imputing blame to the conduct of the Admiralty? Moſt certainly not. Beſides, that Houſe would recollect the ſtrong terms in which the

the merchants of Newcaſtle had recently expreſſed their approbation of the protection that had been afforded the trade of that place.

Mr. Secretary Dundas ſaid, he had heard of the circumſtance alluded to, and he expreſſed himſelf as much concerned as any man, that the property of people on the coaſt ſhould have ſuffered from the depredations of the French; but did not think that any blame upon that account ought by any means to attach to the Admiralty, or any of his Majeſty's ſervants. It muſt always be expected, that in time of war the French ſhould have a number of cruizers on the north coaſt; and, aſſiſted by the ſmugglers, it was not difficult for them to commit temporary depredations. In a former diſcuſſion it was explained, that ſo well protected was that part of the country, that but a ſingle veſſel belonging to it had been taken by the enemy; but though we had a greater number of cruizers than the French, yet it was impoſſible to have that ſort of perfect ſecurity, that at ſome particular period an enemy might not make a momentary incurſion. This aroſe from the nature and extent of the coaſt; and it would appear evidently to any perſon acquainted with it, that an armed force ſtationed at Shields could not immediately give aſſiſtance to the caſtle of Banbury, where this deſcent was ſtated to have been made.

As to the legality of the letter ſent by him to the Lords Lieutenants of Counties, he was ready to defend it whenever it might be neceſſary and proper to enter into its diſcuſſion.

Mr. Sheridan ſaid, that ſince the Right Hon. Gentleman, upon reconſidering what he had ſaid on a former day, had agreed to lay the papers called for upon the table, he would not then trouble the Houſe more at large. Nothing which had fallen from Gentlemen on the other ſide of the Houſe, or from his Learned Friend (Mr. Adair), could induce him to relinquiſh the diſcuſſion upon this ſubject; that it was by no means to be conſidered an abſtract queſtion, which had been unneceſſarily brought forward merely to agitate the exiſtence of a right, before ſuch right had been violated; but to reſtrain the further violation of a right already infringed upon. But as he conſidered the diſcuſſion of the queſtion to be of the firſt importance, there was not a moment to be loſt in going into it. If, therefore, a meſſage was delivered from the King next day, and an addreſs of thanks moved for the communication, he would then take an opportunity of moving an amendment to the addreſs, unleſs the Right Hon. Gentleman, as he had done ſeveral times this ſeſſion, ſhould think that the meſſage itſelf was ſufficient, without any comment or notice from

Parliament; and in that caſe he would feel himſelf obliged to bring the matter forward as early as poſſible in ſome other way. It was abſolutely neceſſary that it ſhould take place ſoon, becauſe different meetings in Surry, Kent, and other counties, were to be called in the courſe of the week, and he would not heſitate to ſay, that he thought thoſe meetings illegal and unconſtitutional, ſince they originated in a direct mandate from the King, through the Secretary of State officially, calling the inhabitants to meet for a purpoſe that was illegal in itſelf. He hoped the Houſe would not interfere by ſending any delegation ſanctioned by them to ſuch meetings, except it was by ſending the Serjeant at Arms to take Lord Onſlow and Mr. Bowles into cuſtody; perhaps, indeed, it might be neceſſary for him to make a motion to that effect.

The worthy magiſtrate (Sir James Sanderſon), Mr. Sheridan obſerved, had confeſſed that the meaſure ought to have originated in that Houſe, yet in the ſame breath he ſaid he ſhould have conſidered an account of ſome ſubſcriptions, at a county meeting, a due notice. He adverted to the neglect of the coaſt. The Right Honourable Secretary of State had ſaid, that it was natural to expect that the French would always have a force in the North Seas in time of war, and that we muſt be liable to ſuch accidents; the ſame might be ſaid of the ſouth coaſt; but he did not think the port of Shields the proper place for ſtationing a force, but along the coaſt from Shields to Leith. Mr. Sheridan ſaid, he did not think the Learned Serjeant had diſplayed his uſual diſcrimination upon the preſent occaſion. He could not anſwer whether ſuch a clauſe as he propoſed would be brought forward; but if it ſhould, it could only operate as a Bill of Indemnity; and Gentlemen had already ſhewn a ſtrong diſlike to the apprehended diſgrace of a Bill of Indemnity.

Mr. Adair ſpoke a few words in explanation.

Mr. Sheridan's motion was then put, and carried *nem. con.*

HOUSE OF LORDS.

TUESDAY, *March* 25.

MESSAGE FROM THE KING.

Lord Grenville preſented a meſſage from his Majeſty to the Houſe, ſtating, that the avowed intentions of the enemy to invade this country had made it neceſſary for him to increaſe his land forces; and that, truſting to the concurrence of Parliament in this neceſſary meaſure, he had given orders accordingly. His Lordſhip then added, that he ſhould on the

next

next day propoſe an Addreſs of Thanks to his Majeſty for his gracious communication; he therefore moved that all the Lords be ſummoned to attend.

This motion was put and carried.

The Earl of Lauderdale ſaid, as he underſtood the papers were to be granted, he therefore would not lengthen the debate. He could not however but congratulate their Lordſhips on the change of ſentiments, in reſpect to this buſineſs, which he perceived in miniſters, ſince the papers were laſt aſked for; for the preſent, his Lordſhip ſaid, he would content himſelf, without any comment, with moving,

"That an humble Addreſs be preſented to his Majeſty, "humbly requeſting his Majeſty to give directions that there be "laid before this Houſe, copies of a circular letter, dated "Whitehall, 14th March 1794, addreſſed to the Lords Lieu- "tenants of counties, *with all communications to them reſpecting* "*plans, &c.*"

Lord Grenville wiſhed clearly to underſtand the Noble Earl's motion correctly; he thought the latter part of it intimated ſomething more than was the original intention of the Mover, and rather too much for his Majeſty's miniſters to grant *ad libitum.*

The Earl of Lauderdale ſaid, it was preciſely the words of the motion paſſed in the Commons.

Lord Grenville did not know what theſe preciſe words were. To the motion, ſo far as it went to produce a copy of the circular letter, he had no objection.

The Earl of Lauderdale then left out his *addenda*, and the motion paſſed.

MOTION RESPECTING FRANCE.

Earl Stanhope roſe to ſay, that he never was more ſhocked or ſurpriſed than on hearing in a late debate a Noble Earl declare, "that if it were poſſible to induce a large body of men in France to take up arms againſt the exiſting government, and excite internal commotion in that country, it was worth our while to pay any price to obtain that deſirable object, as more might be effected by that means than by foreign force." The Earl ſaid, he had taken down the Noble Lord's words at the time. He confeſſed his obligations to the Noble Lord, who had made uſe of ſuch a declaration, as far as any man could be obliged to another for having uttered a ſimilar declaration. He was glad that the Noble Lord had ſpoken out, and wiſhed, if the principles on which the war was to be carried on were ſuch principles, they might be formally made known and avowed. The declaration, his Lordſhip ſaid, had ſtruck him as an obſervation ſo abhorrent to all true policy,

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to genuine religion, and even to common humanity—ſo deteſtable and abominable in itſelf, ſo contrary to the principles of civilized war, and ſo outrageous to all the feelings of human nature, that he thought it his duty to vindicate the character of the nation from the ſtain and diſgrace of the ſentiment, and to diſclaim it by a ſolemn Parliamentary act, as the principle adopted as the means of carrying on the preſent wicked and atrocious war. He therefore moved, "That their Lordſhips be ſummoned to attend their duty in that Houſe on Friday the 4th of April."

The Earl of Mansfield roſe immediately, and began with ſaying, that he certainly did not mean to offer a reply, or wiſh to lengthen the debate, as he did not intend to ſay a ſyllable, on the irregularity of referring to particular words delivered in a former debate at that diſtance of time. He knew not on what part of the ſcale of the Noble Earl's opinion he ſhould ſtand before he ſat down. He wondered not however at the Noble Earl's inattention to Parliamentary forms and rules of proceeding, becauſe the nearer that Houſe, in its total diſregard of order and regularity, was brought to the National Convention of France, the more he was perſuaded would it be agreeable to the Noble Earl, who had in ſo extraordinary a manner taken notice of words, which he was afraid he muſt confeſs were delivered by himſelf; all he meant to ſay was, that, from the habits in which he had been bred, and at his time of life, he had no deſire to make the exchange, pleaſing as it might be to the mind of the Noble Earl. He wiſhed that Houſe to adhere to the principles, the practice, and the forms of proceeding adopted by our anceſtors, and handed down to the preſent age by them, in the manner in which he hoped they would be able to hand them down to their ſucceſſors, and that they might uninterruptedly deſcend to poſterity. The ſentiment conveyed by the words alluded to was his, and he ſhould be ready to ſupport and defend it, whenever the Noble Earl thought proper to make it the ſubject of a motion.

Lord Grenville ſaid, he roſe to take notice of the extremely diſorderly, the extremely irregular, and he had almoſt ſaid, the extremely indecent manner in which the Noble Earl had ſelected a ſingle propoſition out of a ſpeech of another Noble Earl; a ſpeech as able, as maſterly, as ever was delivered, and for which, from the manly and undiſguiſed avowal of ſentiments peculiarly proper to be ſtated explicitly, he not only begged leave to expreſs his ſentiments of gratitude, but he was ſure that Houſe and the country would confeſs their obligations. He repeated it; to ſelect a ſingle propoſition from the Noble Earl's ſpeech at that diſtance of time from the day on which it

was

was delivered, in order to hold it out as an object of cenſure, was moſt irregular and diſorderly. The orders of that Houſe, his Lordſhip ſaid, were not to be conſidered as trifling and nugatory; they were not mere matters of form, but were founded in principles of ſubſtantial juſtice. The regular mode of proceeding, the Noble Earl muſt know, when any words were delivered in debate that were thought deſerving of cenſure, was immediately to move to have the words taken down, that they might be conſidered at the moment, and the Houſe be rendered capable of deciding whether they merited cenſure or not. His Lordſhip ſaid, he by no means wiſhed to lead the Houſe into debate, but he thought it right to ſay thus much of the ſingular conduct of the Noble Earl, whom he begged leave to aſſure, that whenever the queſtion came under diſcuſſion, he ſhould be ready to enter into it, if neceſſary; and he had great hope, and indeed little doubt, that other Noble Lords would do the ſame.

The Earl of Lauderdale ſaid, that he could not avoid taking notice of the extraordinary obſervation of the Noble Secretary of State. Without giving any opinion whatever on the motion of the Noble Earl, and however he might hereafter differ with him on the point of regularity or order in his reference to words which had paſſed in a former debate, he could not but remind the Noble Secretary of State, that the Noble Earl's conduct was neither new nor unprecedented. He muſt ſay, it was a curious thing to hint even an objection to a motion, becauſe ſome Noble Lord had, on a former day, made an aſſertion contradictory to ſuch motion. Did the Noble Secretary of State forget that an aſſertion of a ſingle individual in another Houſe of Parliament, had been made the ground, not merely of a motion, but of repeated Parliamentary proceedings in the time of the agitation of queſtions reſpecting the Regency, on the ſuggeſtion of a perſon nearly connected with the Noble Secretary of State, both by relationſhip and political ſituation? No ſubject was more immediately intereſting to every perſon who wiſhed well to his country, nor any queſtion more highly important in their nature, than thoſe which were put aſide at the time to which he had alluded, to make room for the diſcuſſion of the aſſertion of an individual. The Earl declared he ſhould not have ſaid a word, if the Noble Lord's conduct near him, with reſpect to the words delivered by his Noble Friend (Earl of Mansfield), had not been noticed in ſuch terms. In fact, the Noble Secretary of State had taken notice of a violation of order, and had not been in order himſelf.

The Lord Chancellor ſaid, he roſe to ſave the time of the Houſe, and not to detain it five minutes. The Noble Earl had

certainly been in order in moving to have their Lordſhips ſummoned.' Any Noble Peer had a right to move for the attendance of the Lords: But it was the duty of Noble Lords to attend in their places every day of ſitting; and it was only a matter of uſage and decorum to announce the day when a buſineſs was to be brought on, ſo that in fact a ſummons meant no more than to remind their Lordſhips of what was their duty as a matter of courſe. They were now to be ſummoned for *God knew what* on Friday the 4th of April. When a deſire was expreſſed to have the Houſe to be ſummoned, it had been uſual to explain to what purpoſe or point their Lordſhips were to direct their attention. The diſcuſſion, however, that the Noble Earl had provoked, he was not extremely ſorry for, as it had been of ſome uſe.

Earl Stanhope obſerved, that nothing the Learned Lord on the woolſack had ſaid, tended to prove that he had been guilty of breach of order. The Learned Lord had ſaid, that in moving for the Houſe to be ſummoned, he was right. If the Noble Secretary of State had not been ſo eager to queſtion his regularity, he might have recollected that he was anſwering a motion which had not been made. He did not cenſure the words of the Noble Earl as delivered in debate; but from thoſe words he had inferred the neceſſity of bringing forward a queſtion on the ſubject of the principles avowed on that occaſion. So far was he from wiſhing to diſguiſe his object, he would inform the Noble and Learned Lord that he meant on the 4th of April to move for leave to bring in a Bill, to make it *Felony, without the Benefit of Clergy*, for his Majeſty's miniſters, or any other perſon, to adviſe his Majeſty to uſe ſuch atrocious means of carrying on the war, as to adopt any meaſure for creating and fomenting a civil war in France, or to intermeddle in their internal affairs. This, his Lordſhip ſaid, he conſidered as the moſt felonious, abominable, and deteſtable act that it was poſſible to commit; and he would not ceaſe to reprobate it with his laſt breath. He therefore propoſed that his motion be taken into conſideration on the 4th of April.

Lord Grenville roſe again. He had not ſpoken of a motion, neither known nor made, but of the Noble Earl's diſorderly conduct in relation to words making part of a ſpeech actually delivered, which the Noble Earl had held up by way of cenſure.

The motion for ſummoning the Houſe was put and agreed to.

Earl Stanhope then ſaid, he had another motion to make; upon which he ſhould not divide the Houſe, but ſhould put it upon

upon the Journals. On a motion ſo intereſting, it was the duty of all their Lordſhips to attend; and he ſhould therefore move what was equal to a Call of the Houſe in the Commons, and what had been practiſed in a very recent inſtance, "That "the Lord Chancellor be directed to write Letters to all the "Lords, Spiritual and Temporal, requiring them to attend their "duty in that Houſe on Friday the 4th of April next."

The queſtion was put, and *negatived*. Adjourned.

HOUSE OF COMMONS.

TUESDAY, *March* 25.

A new writ was ordered for Perth, in the room of *General Murray*, deceaſed.

The Alien Bill was reported, and ordered to be engroſſed.

A Petition was preſented from Mr. Braithwaite againſt the Skelton Incloſure Bill, which was referred to the Committee on the Bill, and to be ſupported by counſel—All to have voices.

The Navy Bills and Ripon Road Bills were read the third time, and paſſed.

Mr. Curzon's Petition for a deviation of the line of Aſhby-de-la-Zouch Canal, was reported, and an inſtruction given to the Committee on the Bill to make proviſion accordingly.

Thirteen accounts reſpecting Hull Docks were preſented.—Ordered to lie on the Table.

The Eaſt Harptree and Quarley Incloſures; Ludlow, Woolerton, and Clere Hill Roads, and Tiverton Paving Bills, were reported, and ordered to be engroſſed.

CATHOLICS.

The Solicitor General called the attention of the Houſe to the ſituation of perſons of the Catholic perſuaſion, who were deſirous of acting as Attorneys: He ſtated that ſome doubts were entertained concerning the ſtrict meaning of the Act of Parliament of the 31ſt of his preſent Majeſty, as far as it related to perſons of that deſcription; and therefore he moved, "That leave be given to bring in a Bill to explain the 31ſt of his "preſent Majeſty, as far as it relates to certain perſons there-"in deſcribed, profeſſing the Catholic religion."—Agreed to.

He then moved, "That it be referred to a Committee of "the whole Houſe to-morrow."—Ordered.

MESSAGE FROM HIS MAJESTY.

Mr. Secretary Dundas brought down a meſſage from his Majeſty, which was to the following effect: That his Majeſty thought it proper to acquaint the Houſe, that for the pur-

poſe of more effectually guarding againſt the enemy, he had ordered an augmentation of his land forces, and alſo a large additional force to be aſſembled in any part of the kingdom where the enemy ſhould attempt to carry into effect their projected invaſion. For the warm and zealous ſupport of this meaſure, his Majeſty relied on the concurrence of his faithful Commons.

Mr. Dundas moved, That his Majeſty's Meſſage be taken into conſideration on the 27th.

Mr. Sheridan ſaid, that he would make his promiſed motion at the ſame time.

The Chancellor of the Exchequer obſerved, that it would be impoſſible for the Houſe to take his Majeſty's Meſſage into conſideration that day, without interfering with the promiſed motion of an Honourable Gentleman, who, if he did not bring it forward then, would be deprived of the opportunity of making it.

LANDING OF THE FRENCH.

Sir Matthew White Ridley ſaid, he wiſhed to correct the ſtatement he had given the preceding day, of the French having landed and plundered part of the coaſt of Northumberland. By letters which he had that day received from Newcaſtle, he found the fact was not ſo; but that ſome perſons had forged letters, with the names of reſpectable gentlemen annexed, and which had completely ſucceeded in deceiving both him and the Mayor of Newcaſtle. He thought it to be his duty thus publicly to correct his miſtake. It was to be regretted, that there ſhould be in this country perſons of ſo infamous a diſpoſition as to propagate ſo daring a falſehood, and thus to ſport with the feelings of the Public. He ſaid he would uſe all his endeavours to find out who had been guilty of this wanton act of wickedneſs, in order that, if they could not be puniſhed by law, they might at leaſt be pointed out to the execration of their country.

Mr. Stevens, of the Admiralty, gave an account of the ſtations of various ſhips on that part of the coaſt on which it had been reported that the enemy had landed.

Mr. Brandling bore teſtimony to the loyalty and zeal of the people in that part of the country, and truſted they would be able to diſcover the authors of this falſe report, which had impoſed on him as well as on his Honourable Colleagues.

Admiral Gardner ſaid, that the coaſt of Northumberland was well protected. The Sheerneſs was ſtationed at Yarmouth. There was a 44-gun ſhip at Leith; and the Lord Mulgrave, and two other ſhips, were at Hull. The Honourable Admiral thought proper to mention this, in anſwer to what had been ſaid on a former occaſion.

The

The Houſe was informed by a meſſage from the Lords, that their Lordſhips had agreed to the Bill for augmenting the Militia without any amendment.

CRIMINAL LAW OF SCOTLAND.

Mr. Adam ſaid, he roſe to call the attention of the Houſe a third time, to a ſubject upon which nothing but a deep ſenſe of its great importance ſhould have induced him again to trouble them. He thought it neceſſary to remind Gentlemen of his having given notice in laſt ſeſſion of Parliament, that he meant early in this ſeſſion to bring the matter before the Houſe, becauſe that notice was a proof that he was not influenced by ſubſequent events, but by general principles, in what he had already done and was about to do, and that there was ſomething in the nature of the criminal law of Scotland, totally and completely independent of any recent application of it, that inclined him to think it extremely neceſſary to call the attention of the Houſe to a full, clear, and ample inveſtigation of the principles on which it was founded. The recent events had tended much to confirm all his former impreſſions, and he owned he ſhould think himſelf at liberty to refer to them in illuſtration of his argument. To enable Gentlemen to follow him with more facility through the detail of a dry ſubject, he ſhould firſt ſtate the mode of proceeding which he meant to propoſe, and the ſeveral heads which he wiſhed to be conſidered under that mode of proceeding. His original intention was to move for leave to bring in a Bill to amend the criminal Law of Scotland, in certain caſes ſpecified, and to refer the motion in the uſual form to a Committee of Courts of Juſtice. He meant, however, on better conſideration, to take at this time more Parliamentary ſtages, and to propoſe that the matters ſpecified in his motion ſhould be referred to a ſelect Committee above ſtairs, reported upon by that Committee to the Houſe, and the report referred to a Committee of Courts of Juſtice, as the baſis of a Bill to reform and amend, if approved by that Committee. By this plan of proceeding, ſo ſerious and ſo important a ſubject would be likely to be more frequently and more uſefully inveſtigated and diſcuſſed. The matters which he ſhould ſubmit to the conſideration of the Committee, if granted, ſhould be—Leaſing-making according to the Scots law, the nature of the crime, and the extent of the puniſhment—Sedition, its nature and puniſhment—The propriety of giving an appeal from the Scots criminal courts, not with a view to impeach former judgments, but to inquire how far there might be fit ground for the interference of the Legiſlature to grant ſuch appeal in future—The expediency of granting a new trial, when error appeared upon the record, not in matter of law, but in matter of

fact, ſuch, for inſtance, as refuſing to the defendant the benefit of a witneſs's teſtimony on the allegation of incompetence, when that allegation was not well founded—In what manner petty juries were returned, and what right of challenge was allowed to the priſoner—The powers of the Lord Advocate in inſtituting criminal proſecutions; and immediately connected with this head, the expediency of granting to the ſubject in Scotland, the protection of a grand jury. To theſe he ſhould add ſome other matters, *viz.* the power of the criminal courts to puniſh contempts, and the power of inferior courts to try criminal caſes, and puniſh without the intervention of a jury. He ſaid he ſhould take the liberty of ſtating a few arguments upon each of theſe heads, and that he ſhould do it in the inverſe order from what he had ſtated, becauſe thoſe which were firſt ſtated had been before diſcuſſed pretty much at length, and thoſe which occurred laſt had not hitherto been touched upon.

Strange as it might ſeem, it had been held, that Sheriffs' courts, and courts of Juſtices of Peace, might try without a jury, even for capital offences. In other criminal caſes, ſuch courts had actually ſo tried, and ſentenced ſometimes to fines, ſometimes to corporal puniſhments; and when their proceedings were brought under review before the Court of Juſticiary, by a bill of advocation, the deciſion upon them was not ſuch as to make it clear in point of law, that theſe inferior courts had no ſuch juriſdiction. He obſerved, that this queſtion was not calculated for a large audience; but he was happy to ſee ſeveral Gentlemen acquainted with the laws of that country, who muſt know that his ſtatements were correct, and be convinced of the defect which exiſted in thoſe laws. That courts of inferior powers might try cauſes without a jury, he cited a caſe. In 1770, one Piſcatore was tried in this manner by the Sheriff's court, and ſentenced to puniſhment:—The ſuperior court decided that the Sheriff's court had not juriſdiction in the caſe; on which Maclaurin, the reporter, obſerves—"This deciſion was much applauded; and it is to be hoped will put an end to ſuch trials, except where they are authoriſed by ſpecial ſtatutes, of which there are too many on the books." From theſe expreſſions of a very learned lawyer, it was clear, he did not think the deciſion of the ſuperior court ſufficient to remove all future doubts upon the ſubject; and the juriſdiction itſelf was one, that he was ſure he ſhould not have defended on its own proper merits.

Another point he wiſhed to ſpeak a few words upon, was the power which courts arrogated to themſelves with regard to puniſhing contempts. In this branch of their juriſdiction he con-

contended that they ſhould be expreſsly limited: That no man ſhould be puniſhed for any conduct as a contempt of court, except in the very cauſe in which he might be before the court, either as plaintiff, defendant, or witneſs, and not for any matter he ſhould do extraneous to that cauſe. That ſuch had not been always the conduct of the Court of Juſticiary, he ſhewed from the caſe of a gentleman of the name of Dunn, who had been lately puniſhed for contempt by the Court of Juſticiary, on a charge of ſpoliation, in tearing out ſome leaves from a book intended to be adduced as evidence on ſome future trial. He was ready to admit, that every court ought to poſſeſs the power of puniſhing for contempt, when the contempt aroſe out of any caſe pending before the court; but not of puniſhing as a contempt an act done at a time when nothing to which that act had relation was under their cognizance. The act of ſpoliation alledged againſt Mr. Dunn, was committed before the caſe, on which the book from which the leaves were torn was to be produced as evidence, came before the court, and even before the precognition, on which the libel or indictment was to be founded, had been taken before the Sheriff. He was not informed whether or not Mr. Dunn objected to the juriſdiction of the court; but for this act he was ready to prove that Mr. Dunn had been impriſoned for a contempt, which was an extenſion of juriſdiction by the court, which he thought the Houſe would conſider as fit to be inquired into.

The next point to which he adverted, was the power of the Sheriffs and other Magiſtrates, with regard to taking informations againſt perſons accuſed of any criminal offence; upon which informations alone, the indictments were founded.

In England no man could by law be put upon his trial for a criminal charge, till a bill had been found againſt him by the grand jury, except in caſes of information, in which caſe the defendant was entitled to ſhew cauſe why the information had not been granted by the court. There were, he admitted, caſes in which the Attorney-General might proceed by information *ex officio*; but his Majeſty's preſent Attorney-General had often, much to his honour, declined that privilege, and proceeded by the more conſtitutional manner, indictment; and the more frequently he recurred to that mode of proceeding, in preference to that of information *ex officio*, the more deſerving would he be of the eſteem and regard of his country. In Scotland, all the functions exerciſed by grand juries here, were veſted entirely in the Lord Advocate, who acted as public accuſer and proſecutor; and between the accuſation and the trial of the accuſed, there was nothing to intervene, by which miſtake, miſapprehenſion, or malice, might be corrected, explained,

explained, or reſtrained. After a precognition taken before the Sheriff, or a Juſtice of Peace, the information, or a copy of it, was tranſmitted to the Lord Advocate, and with him it reſted to decide whether or not it contained ſufficient grounds for putting the party upon his trial. He did not know with ſufficient accuracy to ſtate it to the Houſe, in what manner theſe precognitions were taken—whether or not they were taken with ſhut doors; whether or not the party accuſed was always placed in ſuch a ſituation as to feel himſelf a free agent, and all the neceſſary forms obſerved, to afford him that protection to which he was entitled—but this he knew, that there was nothing in the Scots law, to compel the taking of precognitions in ſuch a way as to ſecure to him theſe advantages. A proviſion was made by law, that when the charge came before a jury, the witneſs ſhould be told that the precognition was deſtroyed, and could not be produced againſt him, as an inducement to ſpeak the truth to the jury, whatever he might have ſaid before. This was evidently the intention, but he feared the effect did not always correſpond; and therefore he thought the mode of inſtituting criminal proſecutions, a fit matter of parliamentary inquiry. It needed not many words to convince Gentlemen, that an examination before a grand jury, in the firſt inſtance, would be attended with more ſalutary effects. He knew the difficulties that might be oppoſed to the introduction of grand juries into the Scots criminal law. Profeſſional men were naturally ſo much attached to the habits in which they had been educated, and had paſſed their lives, that it might, perhaps, be ſaid that the people themſelves would be unwilling to be called to ſerve on grand juries. But if the thing propoſed was good in itſelf, this was no argument againſt it, in the conſideration of Parliament, authoriſed by law and the conſtitution to legiſlate for the whole kingdom, when deliberating on a queſtion of ſo much importance, as the beſt means of adminiſtering and diſtributing public juſtice. Whoever had any knowledge of the people of Scotland, muſt know that there could be no want of men among them well qualified to ſerve on grand juries, and there was no reaſon why ſuch men ſhould be excuſed from doing their duty to the Public. As he was addreſſing himſelf to men who were well acquainted with the criminal juriſprudence in both countries, who well knew the excellence of the inſtitution of grand juries, and the great benefits derived from the intervention of a jury between the accuſed and his trial, he could find no difficulty in ſaying, that the introduction of this ſyſtem into Scotland would be attended with ſingular advantages, and give an eſſential privilege to the people of that country. No eſta-

bliſhment

bliſhment in the criminal law of England was more univerſally admitted to be beneficial to the rights and ſecurity of the ſubject than that of grand juries. The introduction of the ſame ſort of ſecurity into the Scots criminal law would relieve the Lord Advocate from a very odious, arduous, and ungracious taſk, and afford the people a protection againſt the hardſhips and expence of being brought to trial without ſufficient cauſe. It would be an important privilege in another point of view, for at preſent all proſecutions, whoever might be the proſecutor, proceeded in the name, or with the concurrence of his Majeſty's Advocate: Nothing was more difficult than to obtain redreſs for a malicious proſecution. No inſtitution was better calculated for forming the character of a people. By attending on grand juries they became acquainted with the juriſprudence of their country, and acquired a ſuperior degree of acuteneſs in diſcuſſing all the principles, without the knowledge of which no people could long be free. The introduction of it into Scotland would therefore be a political as well as a judicial benefit. He next adverted to the manner of conſtituting the petty jury, which he ſtated to be faulty in the extreme, liable to undue influence, and ſubject to no control in behalf of the party accuſed. The preſent mode of conſtituting petty juries, he ſaid, was this: For the ſhire of Edinburgh, forty-five names were returned by the Sheriff to the Clerk of Juſticiary at Edinburgh; and theſe names muſt be printed with the libel, or indictment. In all the reſt of Scotland, forty-five names were returned by each of three ſhires forming a circuit; and the whole liſt was afterwards reduced to forty-five by the Clerk of Juſticiary. But, inſtead of the firſt fifteen that anſwered to their names, being ſworn, and to paſs upon the jury, the names were called at pleaſure, which amounted to a power of ſelecting any fifteen out of the forty-five. This was peculiarly improper in caſes of miſdemeanour. In England, miſdemeanours might be tried before the Juſtices at the Quarter Seſſions; but much the greater part of them were tried at *Niſi Prius*, and there the jury was taken by ballot as directed by the act of George II. an excellent regulation, which might be adopted as the model for Scotland. It was the more neceſſary to be ſtrict in the mode of taking the jury, becauſe the law of Scotland allowed no challenge but for cauſe. If in England any communication were proved between the agents for the proſecution and the jury, the whole array might be ſet aſide; but it was not ſo in Scotland.

On competency of evidence, to prove the having been acceſſary to any fact charged as criminal, the Act of Parliament

clearly ſaid, that the crime was to be diſtinctly charged in the indictment; and therefore he muſt contend that no evidence ought to be admitted beyond this in point of time or place. The diſtinction between the competency and the credibility of a witneſs was well underſtood in Scotland; and if the witneſs was competent and willing to anſwer, his teſtimony muſt go to the Jury, however he might prevaricate, becauſe prevarication affected his credibility only, and of that the jury were the proper judges. But although this was the law, it was not the practice of the Scots criminal courts, and therefore the practice ought to be amended. If the teſtimony of every competent witneſs did not go to the jury, if the court was to decide what witneſſes were fit to be believed and what not, the trial by jury would be a mockery. The practice of Engliſh courts was, that a witneſs, although he might prevaricate, muſt be heard; and truth had often been drawn from ſuch a witneſs, to the ſatisfaction both of court and jury.

The Court of Juſticiary had deviated from that wholeſome and neceſſary practice: They had confounded the province of judge and jury; the office of the former being to judge of the law, the latter of the fact. An Honourable Friend of his (Mr. Erſkine) had, in caſes of libel, carried this ſtill farther, and by his laudable exertions had been inſtrumental in veſting juries with the power of judging both of the law and the fact. If there was a prevarication, it was a queſtion of credibility, and became a circumſtance ſolely for the jury to decide upon.

On the ſubject of granting a new trial, he had underſtood the Lord Advocate to ſay, that a new trial could not be granted in Scotland on any ground; and that after verdict the priſoner could have recourſe only to the mercy of the Sovereign. If that was the law of Scotland, it ſhould not continue to be law: For in every caſe where either improper evidence had been admitted, or evidence ſent to the jury which did not go to the crime charged in the indictment, or evidence ſhould be refuſed to be admitted; in each of theſe caſes a new trial ſhould be granted. By the law of England the rule was, that if evidence were rejected on the trial which ought to have been admitted, or evidence admitted that ought to have been rejected, a new trial muſt be granted if the verdict was for the Crown, but not if it was for the ſubject. The reaſon was as obvious as it was humane. The competency of evidence was matter of law for the deciſion of the judge. In deciding upon it judges might err, and the ſubject was not to ſuffer by the error of the judge if found guilty, nor to be haraſſed with repeated trials if acquitted.

On

On the ſubject of there being no arreſt of judgment allowed, or appeal to the Lords in Parliament, very little argument would be neceſſary to prove it; men would naturally wiſh for an opportunity of re-examining opinions they had advanced, or correcting any error that might have crept into their proceedings: It would be ſufficient to ſtate that there did exiſt a Court of Juſtice, which hears in the firſt inſtance, and determines in the dernier reſort: To convince Gentlemen of the neceſſity of ſuch an appeal, ſuch a court was the Court of Juſticiary. He ſhould only ſay at preſent that in this inſtance, and this only, the Scots law was contrary to the whole tenor and practice of the Engliſh law. He had moved for correcting this anomaly before; but he was perfectly within the rules of the Houſe in now propoſing it as an object of inquiry.

The next ſubject had been already much diſcuſſed; the crime of ſedition and leaſing-making, a matter well worthy the moſt ſerious conſideration of the Houſe. He ſhould premiſe what he had to ſay upon it, with obſerving that a grand jury had exiſted in Scotland, for caſes of high treaſon, ſince the beginning of this century. By the Act of Anne, paſſed immediately after the Union, the laws of treaſon were made the ſame in both countries, upon the beſt poſſible grounds, becauſe the people of both countries were bound by the ſame duty of allegiance, and treaſon is the violation of that duty; and this act, and thoſe laws, Mr. Erſkine (the beſt writer upon the laws of Scotland) had embodied in his Inſtitutes. What applied to treaſon was equally applicable to other offences, more eſpecially to ſedition. Sedition, he contended, was a part of the crime of treaſon, and ſhould be ſubjected to the ſame ſyſtem of laws, *viz.* the laws of England. On ſedition and leaſing-making, as coupled and confounded, the doctrines he had lately heard were moſt extraordinary and alarming.—It had been maintained, that the charge might be laid generally, and the puniſhment be arbitrary; either fine, impriſonment, tranſportation, or to any extent ſhort of death. After the arguments on a former occaſion, it was ſufficient for him to ſtate, that this authority was ſaid by thoſe who aſſerted it, to be inherent in the Court. If ſo, the Court poſſeſſed a power no leſs formidable and inconſiſtent with liberty, than that poſſeſſed formerly by the Privy Council in Scotland, or the Star Chamber in England. It was a power defined by no law, governed by no precedent, but left to the temper, character, or caprice of thoſe who exerciſed it. It was a very true, though common ſaying, "*Miſera eſt illa ſervitus ubi jus vagum et incertum.*"

The other part related to leaſing-making, as diſtinct from ſedition. By all the inquiries he had made ſince the former diſcuſſion, he was more and more confirmed in the validity of the diſtinction he had then affirmed to exiſt between baniſhment and tranſportation. Every author who had given a definition of baniſhment, from Cicero down to Puffendorff, Grotius, and Vatel, defined it to be ſimple removal from the ſociety to which a man formerly belonged, not tranſportation beyond ſeas, or to any particular ſpot. Thoſe Gentlemen who maintained the contrary opinion, ſaid, that the contemporaneous definition of the word, as it appeared in the Act of Parliament, was the definition to be preferred. He denied that there was any inſtance of tranſportation applied to leaſing-making. The bankrupt act of 1696 gave juriſdiction, not to the Court of Juſticiary, but to the Court of Seſſion. The Act of 1703, reſpecting leaſing-making, ſaid the offence might be puniſhed by fine, impriſonment, or baniſhment. The Act of 1696 ſaid, fraudulent bankrupts might be ſubjected to any puniſhment ſhort of death. The firſt inſtance of tranſportation under the Act of 1696, was in 1744, which could not be called a contemporaneous definition of the word Baniſhment in another Act; but was evidently the error of judges who had been uſed to confound tranſportation and baniſhment. In this they did not found their judgment on any Act of Parliament, but on a function of an unlimited and undefined nature, called their *nobile officium*; a function which the Court of Seſſion ſometimes aſſumed, but which was never ſuppoſed to belong to the Court of Juſticiary. The next caſe relied upon as an expoſition of the Act of 1703, was that of Mr. Bailey, tried before the Scots Privy Council in 1704. If the Houſe would agree to the Committee, he would pledge himſelf to prove that no ſuch caſe was to be found in the records of the Court of Juſticiary. An inveſtigation of the Scots criminal law had been going on for eighteen months previous to framing the late indictments; and yet, after ſo much reſearch, this caſe had never been thought of, at leaſt never produced till after the trials. How came it to be overlooked, but becauſe it was held inapplicable? How came it to be brought forward, but becauſe every ſort of defence was felt to be neceſſary? Let Gentlemen mark the numerous and ſtrong diſtinctions that ſeparated this caſe from every other.

The firſt thing worthy of notice, which occurred in this caſe, was the liſt of the Privy Council (before whom the trial was held), upon which appeared the names of the Lord Advocate and the Duke of Queenſbery. The firſt of theſe Gentlemen

men conſequently acted the part of proſecutor and judge; and the other was the perſon againſt whom the offence was committed; there was no jury to decide on the facts. The offence which the libel charged was, that Bailey, the defendant, had accuſed a great officer of ſtate (the Duke of Queenſbery) with leaſing-making, and having charged the Duke of Hamilton as being guilty of high treaſon; and concluded, that his guilt ought to incur the pains of law, *at leaſt all the pains of the Act of* 1703. Of this offence he was found guilty *art and part*; and the determination of the Court was, that he ſhould be puniſhed ſeverely, *at leaſt* with the pains of law. Hence it was clear that the Privy Council did not think themſelves reſtricted by the Act of 1703; and in fact their ſentence did not commute baniſhment for tranſportation, but added other penalties not mentioned in that Act. Previous to his trial, he was not admitted to bail, though no pauper, but a gentleman of property and connexions, being of a reſpectable family of that country, who are now well known, and his brother was at that time a Colonel in the army. He was therefore very able to find bail, which ſhewed that they did not conſider his offence as bailable. In their ſentence they pronounced, "that the ſaid David Bailey be infamous; that he be baniſhed forth of Scotland for ever; that he be tranſported to the Weſt Indies; and that previous to tranſportation he be ſet on the pillory." Thus they added infamy to the puniſhment, which they could not do by the Act: And the baniſhment to the Weſt Indies, he contended, was only a mode of ſending him from the country, and from which he might go to any other place without ſubjecting himſelf to further puniſhment: Indeed, it had been maintained, that he never was ſent to the Weſt Indies, but ſuffered to quit the country, and go where he pleaſed. From all theſe circumſtances it was clear, the Privy Council did not act in ſtrict conformity with the Act, but under ſome other authority with which they conceived themſelves veſted, and that this therefore could be no contemporaneous expoſition of the Act. In every point of view, therefore, it would be abſurd to rely on this as a caſe to expound the meaning of that Act. By former ſtatutes it was made highly penal to bring a falſe charge againſt a member of the Scots Privy Council; and on theſe they probably acted in the caſe of Mr. Bailey. The crime of which Bailey had been guilty, was that of accuſing a perſon high in office, which by the ſtatute book appeared to have been conſidered a crime of conſiderable magnitude, as alſo the crime of perjury, or charging another with perjury; for which offences a particular ſtatute was framed, which aroſe from what was called Gowrie's Conſpiracy, ſet on foot by Lord Ochiltree to impriſon James I. To ſay nothing of the nature of the Court

of Privy Council, citing this caſe for the firſt time, ninety years after it occurred, was ſufficient to ſhew that the criminal law of Scotland ſtands not on proper grounds.

Mr. Adam ſaid, he was aſhamed to have detained the Houſe ſo long upon the ſubject, but he would draw as faſt as poſſible to his concluſion. He alluded to the clauſe in the Act of Union, to enable the Parliament to diſſolve the Privy Council of Scotland, and to have but one Privy Council in England. Why the Scots Privy Council was aboliſhed ſoon after the Union, might be ſeen in Defoe's Hiſtory of that event; an authority which, whatever might be the character of the man, was often relied upon. There it appeared that it was aboliſhed, becauſe it arrogated powers which no man who regarded liberty could endure; and from this Court, which was odious and deteſtable to the laſt hour of its exiſtence, was a precedent to be taken and converted into law? It might be ſaid, that if it was not of competent juriſdiction, Bailey might have refuſed to ſubmit to it; but it muſt be remembered, that to decline the juriſdiction of that Court was made by ſtatute high treaſon. The determination of that Court, upon this caſe, was the principal ground upon which the Gentlemen on the other ſide had maintained their opinion, and therefore he did not ſee how the Committee, with any ſort of propriety, could be refuſed. If it were poſſible at once to ſubſtitute the criminal laws of England in the place of thoſe of Scotland, it would be the beſt thing that could be done; but he was well aware of the difficulty, ariſing from prejudice and attachment. He wiſhed to have what was valuable of the Scotch law, ſuperadded to the advantages of the Engliſh. Sure he was that they might be aſſimilated as far as reſpected State crimes, without violating either the ſpirit or the letter of the Union, and without injury to the ſubject. The treaſon laws had been aſſimilated, and why not the reſt? Immediately after the Union, the laws of treaſon were made the ſame in both countries, and might have been ſo made immediately upon the acceſſion of James the Firſt; but it at that time depended upon the legiſlature of Scotland. The principle upon which that aſſimilation was founded was clear and obvious; that people who owe the ſame allegiance would be bound by the ſame criminal laws to an obſervance thereof; the ſame political moral ſhould exiſt in both countries; and the ſame principles of preventive law. To ſhew that what he propoſed was clearly within the power of Parliament, it was only neceſſary to mention the 18th and 19th articles of the Union, and the abolition of the heritable juriſdictions. He contended, that, from the ſuppreſſion of the heritable juriſdiction, an alteration in the criminal law was not quite novel; and that by the 29th clauſe

chuſe of the Treaty of Union, the Legiſlature had an undoubted power to make ſuch alterations as might ſeem neceſſary; and in fact, they had done ſo by introducing the ſame law with regard to high treaſon, and inſtituting the inquiry by a grand jury in that caſe. He ſaid, he had lately been preſent at a trial where a man, convicted of a conſpiracy, with intent to excite ſedition, was ſentenced to twelve months impriſonment. Nothing could be more abſurd than that men, becauſe they happened to live at one end of the iſland, ſhould be puniſhed with fourteen years tranſportation for offences which, if they had lived at the other, would have incurred only one year's impriſonment. He concluded with moving,

"That a Select Committee be appointed to conſider of the "criminal law of Scotland; with reſpect to the crime of "Leaſing-making; the crime of Sedition; the right of appeal "from the ſupreme court of criminal judicature; the power "of arreſting judgment; and the right to a new trial; the "law reſpecting the competency and credibility of witneſſes; "the law reſpecting the admiſſibility of evidence under the "charge of art and part; the mode of returning the com-"mon jury, and of chuſing from the 45, when returned, thoſe "who are to ſerve, and the legal objections to jurymen; the "propriety of introducing a grand jury to find bills of in-"dictment; the power of ſheriffs, and other magiſtrates, in "taking precognitions, (*i. e.* information for trial and com-"mitment;) the power of the criminal courts in puniſhing "contempts; the neceſſity of a jury in all caſes; corporal pu-"niſhments in courts of inferior juriſdiction; and to report re-"ſpecting the ſame, with their opinion thereupon, to the Houſe."

Mr. Secretary Dundas ſaid, he did not chuſe to ſit ſilent for a moment under a diſcuſſion of the queſtion before the Houſe. Being a native of that part of the United Kingdom whoſe criminal juriſprudence was at preſent the object of diſcuſſion, and the repreſentative of one of her principal cities in Parliament, he did not conceive it to be conſiſtent with his duty to remain a paſſive auditor, after what had fallen from the Hon. Gentleman. He begged leave therefore to enter his proteſt againſt the whole of the Learned Gentleman's reaſoning on this occaſion. The Houſe would recollect that the ſouthern and northern parts of the kingdom were connected by a Treaty of Union ſolemnly conſidered; attended with many difficulties in the diſcuſſion of it; violently oppoſed; but at laſt, after full and impartial conſideration, it had been thought proper to conclude it. One of the moſt important regulations of that treaty was, that which provided for the adminiſtration of juſtice according to the then exiſting laws, and for the protection of the country from the introduction of the Engliſh mu-

nicipal law within its territory. But, in defiance of thoſe proviſions, the Houſe (which by the Act of Union alone had a right to legiſlate upon the ſubject) was called upon to trample theſe ſtipulations under foot, and to determine upon theoretical opinions in direct oppoſition to them.

The queſtion therefore was, whether the Houſe would, at one ſtroke, or blow, overturn the whole of that Treaty of Union? for that was the tenor of the motion before them: Or whether the Houſe would inſiſt on extending the advantages of the criminal law of England to the other ſide of the Tweed, merely out of compliment to the whim of an individual, without thoſe advantages having been aſked for on the part of Scotland, and where they would not be thankfully received? It might be the opinion of the Learned Gentleman (it was perfectly natural it ſhould) that the law of England was preferable to the law of Scotland, and that the law of both ſhould be the ſame; but that was contrary to the feelings of the people of the country from whence he came, and directly againſt the Articles of Union. The Learned Gentleman had produced ten or a dozen articles under different heads of his motion; and, as far as he had been able to attend to them, they really appeared to him to be a complete alteration of the law of Scotland; as well the mode of accuſation for crimes, trials, and convictions, as the manner of inflicting puniſhment. There was no part of the law which the Learned Gentleman did not propoſe to alter. Upon this ground he muſt oppoſe the whole of the motion. What was the ſituation in which it was propoſed by the motion to place the people of Scotland? completely to change their condition with reſpect to the criminal law; this would be cruel to them. He wiſhed the Houſe to remember, that it was no part of his intention to throw the ſmalleſt ſtigma upon the criminal law of England. Her ſubjects were happy and contented under it; and the conceptions they entertained of its excellence, it was no part of his intention to impair; but, on the contrary, he only deſigned to remark, that if the people of Scotland were equally well pleaſed with their preſent circumſtances, there was no occaſion to make any alteration in their condition, for the mere purpoſe of aſſimilating it to that of the natives of the ſouthern parts of the kingdom; and yet the Houſe was called upon by the motion now before them to preſume, that the whole maſs of the people of Scotland were perfectly ready to alter the whole of their criminal law. They were to have a grand jury; becauſe there was a grand jury in criminal caſes in the law of England.

He admitted there were many material variations and differences between the Engliſh and the Scots criminal laws, ſome of which he might think, in common with the Learned Gentle-

Gentleman, were preferable in the former than the latter country; ſuch, for inſtance, that poſitive puniſhments were in general affixed to poſitive crimes with us, while among the Scots a greater latitude and diſcretion, under the name of arbitrary puniſhments, were indulged their judges; but he affirmed that this very circumſtance it was that attached that people to their laws; and he was bold to ſay, that there would be found fewer crimes to exiſt among them than any other country in Europe, and that juſtice was adminiſtered in Scotland with a degree of lenity and moderation, owing to this very diſcretionary power, not to be paralleled; it would therefore neither be wiſe nor prudent to alarm them with the apprehenſion of change, which the adoption of the propoſed Committee would inevitably do. If ever there exiſted in civilized ſociety a people who were perfectly happy, peaceable, and quiet, under the laws that governed them, that people were to be found in Scotland. He ſtated the firm conviction of his mind, and he begged to be contradicted in that particular if he was wrong. From the time of the Revolution downwards, there had not exiſted a doubt but that the law of Scotland was agreeable to the people; and the adminiſtration of it was lenient to a degree of admiration. He therefore truſted that the Houſe would be cautious how they indulged the vague theories of any individual, to diſturb the happineſs of a people, which would be the caſe if the preſent motion was carried. He would ſay again, that the people of Scotland were contented with their laws, and happy under them; this was manifeſt from the few crimes that were to be found among them; he would further add, that when any convictions took place among them, the puniſhment was not more ſevere than the crimes deſerved. There were more criminals in this country far than in Scotland, taking the proportion of the population, and more ſtill on capital offences. Looking at the propoſed transfer of the criminal code of this country into Scotland, he would aſk, What would be the natural conſequence? The addition of the long train of capital puniſhments with which our criminal law is reproached, and for which he conceived the Scots would be very little obliged to us.

From the ſituation of Lord Advocate, which he had held in Scotland in the earlieſt and beſt part of his life, and from the office of Secretary of State, which he filled at preſent, he had been enabled to form a pretty correct eſtimate of the comparative ſtate of the criminal law of both; and the preponderance of his opinion was certainly in favour of the lenity of that of Scotland. At the end of the very laſt Seſſion at the Old Bailey, the Recorder had made a report of no leſs than thirteen

thirteen capital convicts, all whoſe puniſhments, except that of one man, had been tranſmuted into tranſportation by the executive Government; and from this circumſtance it would appear, that the ſo much boaſted lenity of the Engliſh law did not ſo much ariſe from its poſitive enactments, as from the mildneſs of the manner in which its ſentences were carried into effect. In one particular inſtance, which he begged leave to ſtate to the Houſe, he could not well conceive what the aſtoniſhment of the people of Scotland would be, if ſuch a law were introduced among them. By the law of England, a man who broke through a ſhutter, and ſtole goods from a houſe in the night-time, was guilty of a capital offence, burglary; though, if he had ſtolen goods from the houſe, the window being open, and he entering by it, no ſuch conſequence would have enſued. Suppoſe they were to ſubſtitute the law of England for the law of Scotland, and tell a Scotchman he muſt ſuffer death if he ſteals a piece of cheeſe; he would ſtare with wonder and ſay, "A piece of cheeſe?"—"Yes—becauſe the window, out of which you ſtole it, was ſhut."—This he believed would aſtoniſh a Scotchman, and he would not thank the Gentleman who gave him ſuch a law. This diſtinction, however by practice the people of England were familiarized to it, could not be eaſily underſtood, or acted upon, by the Scots, as it had no foundation in nature, and depended upon refined, and perhaps unaccountable, ſubtleties. Notwithſtanding this, and many ſimilar inſtances of apparent abſurdity or cruelty in the law of England, the people were happy under it: The mercy of the Crown was regarded as a part of the adminiſtration of juſtice, and its theoretical cruelty was forgotten, as its practical lenity was daily exhibited.

The Learned Gentleman who made the motion complained of the law of Scotland, on account of there being too much diſcretion left to the judges, by way of puniſhment after conviction. In capital crimes in the law of England, the diſcretion of the judges was very great. On the circuit, for inſtance, the caſes of many convicts were not determined immediately by the law of the land, but reſted altogether on the lenity of the adminiſtration of that law.

He begged again to be underſtood as not ſetting up the ſmalleſt complaint againſt the law of England; he only brought forward theſe obſervations to ſhew how much diſcretion was given to the judges, who, in many caſes, after pronouncing ſentence of death on any perſon, might reſpite and ſtay the execution of the ſentence. How ſtood the matter with reſpect to the mercy of the Crown? either by petition put into the King's own hand, which might poſſibly happen, or more com-

commonly and regularly preſented to the Secretary of State; and then it depended chiefly on the advice of the Secretary of State, whether the convict received mercy or not. This was not the lenity of the law, but the mercy of the crown. He did not mean to ſay that the Secretary of State uſed his advice to decide the caſe, as from himſelf, and that the whole of it depended upon him; he gave his opinion according to the report of the judge, though ſometimes there might appear to him to be cauſe for ſhewing lenity where the judge did not recommend it. He flattered himſelf that no Secretary of State ever did, or ever would, adviſe ſeverity where the judge recommended mercy. The king himſelf preceded on thoſe occaſions; but he did not exerciſe his prerogative from his own feelings, he acted chiefly from the advice of others; and it was to the diſcretion of theſe that much of the execution of the law of England was entruſted. If, therefore, the people of England were happy under the law of England, it was not becauſe there was but little diſcretion given to miniſters in the execution of it. He ſtated theſe things for the purpoſe of entitling himſelf to beg of Gentlemen not to run away with the theories of any ingenious ſpeculator, in oppoſition to ſyſtems under which ſo much happineſs had been enjoyed. If the people of England were happy under the law by which they were governed, ſo were the people of Scotland. The Learned Gentleman could not ſay that the law of Scotland, either in its ſpirit, or in the manner in which it was adminiſtered, was againſt the feeling of the people of Scotland. By one there was much diſcretion given to the judges ſitting on the Bench in all caſes. By the other there was much diſcretion in the execution of the judgment; but juſtice was equally adminiſtered in both. If the country was ſatisfied, there was no good reaſon to change them upon the ground of theories however flattering to the imagination of their projector. If for ſo long a period as from the time of the Union to the preſent hour, the people of Scotland had been contented with their law, was it prudent to repeal the whole of its principle, and its practice from accuſation to puniſhment? It was upon theſe grounds that he reſted his objections to the preſent motion, and he thought it better to argue the point in this general way, than by entering into particular topics. With regard to the law of treaſon, it was very true, as the Learned Gentleman had ſtated, the law had been made the ſame in both countries; but that matter had been brought forward by the concurrence of all the higheſt law authorities of this country, and originated in another Houſe: The policy of it was obvious at that time: And then there was a wiſh the

law ſhould have been ſo allowed; but that was different indeed from the general *Sweeping Committee* propoſed by the preſent motion.

With regard to the grand jury, of which the Learned Gentleman had ſpoken, ſuch an inſtitution certainly did not exiſt in the law of Scotland; but he did not think the Scotch had any reaſon to complain of the deficiency of their law on that account, for the manner of carrying on a proſecution was different in Scotland from England. When any man was accuſed of a crime, a magiſtrate of reſpectability and character attended to take all the circumſtances down; he was unconnected with any party, and had no view but the due execution of his duty; the whole of the matter thus taken was tranſmitted to the Lord Advocate, who followed alſo the duty of his office in the ſame diſintereſted manner. He was perfectly ſure that no perſon ever heard of ſuch a magiſtrate having made any thing but a faithful report of ſuch caſe, or of any advocate having followed any thing but the ſtrict line of his duty in the ſubſequent proceedings of any proſecution. Some Gentlemen might talk of the late trials for ſedition in Scotland; he laid them entirely out of the queſtion; and let Gentlemen who found fault with theſe trials not build the whole of their complaints againſt the law of Scotland on them, but let them alſo advert to the other proceedings of the courts of the law of Scotland, and draw their arguments fairly from the whole, and not from a part partially ſelected for their own purpoſe. He obſerved that Gentlemen had been extremely eager to manifeſt their humanity upon the caſes of ſome perſons lately convicted; he thought their patriotiſm a little partial; for had they been actuated by motives of pure real humanity, they might have found many caſes of miſerable objects ſentenced for tranſportation nearer home; all at once however they were awakened by the caſe of men, who had thought fit to paſs the frontiers of their own countries to brave and violate the laws of another.

As to the obſervations of the Learned Gentleman upon the political morality of the two countries, and of the abſurdity of making diſtinctions in that reſpect, he muſt ſay, that this did not appear to him to be extraordinary, for different people, from different habits and different prejudices, might require different regulations for their morals. Indeed, he did not know to what length the Learned Gentleman intended to proceed upon this project of reform—Was he to alter the religion of the people of Scotland? Did he even wiſh to take away from them their preſbytery? They were perfectly happy as they were, and ſhould not on any vain theory be called upon or induced to change

change their thoughts on morality or on religion; nor on any part of their ſyſtem of juriſprudence, unleſs it was a point of grievance ſeverely felt and generally complained of. As to the caſe of one year's impriſonment in England, mentioned by the Learned and Hon. Gentleman, as a puniſhment in England for a libel on the Government, he did not know the caſe he alluded to; but he muſt ſay, that when he looked around him, and ſaw the attacks that were daily made on the very vitals of the conſtitution; when he ſaw this ſyſtematically done; when he found that works in their nature hoſtile to the government of the country, addreſſed to the lower orders of ſociety, for the purpoſe of creating diſcontent among them, were left in cellars and on ſtairs, dropt in ſtreets, and ſcattered about on highways and on commons (nay, he found one of them himſelf on Wimbledon Common the other day); he thought it his duty to ſay that ſomething muſt be done to check thoſe practices. Theſe things were carried on, and theſe ſentiments were ſpread with great aſſiduity by perſons denominating themſelves Correſponding Societies, and other names by which Gentlemen chuſe to adorn their meetings; and under all theſe circumſtances, he was ready to ſay that he was clearly convinced that the puniſhment hitherto inflicted by the law of England was not ſufficiently ſevere to deter perſons from this practice [a cry of *hear! hear!*] Mr. Dundas ſaid, he would again repeat it, in order to be well underſtood—"He was clearly convinced that, on proper inquiry into this ſubject, it would be found that the law of this country was inſufficient in this reſpect, and that the Legiſlature muſt proceed in ſome meaſure or other different from what the law was at preſent in that particular." He ſaid this the more readily, becauſe on a former day he had heard it aſſerted, that no man dared to ſay the law of England ought to be altered in this reſpect. He dared to ſay it, becauſe he dared to think it. Mr. Secretary Dundas concluded by giving his decided negative to the motion.

Mr. Serjeant Adair obſerved, that the Right Hon. Gentleman had reſiſted the motion of his Hon. Friend upon two grounds: Firſt, becauſe, in its principle, it was contrary to the Articles of the Union, and to thoſe forms, and that ſyſtem of law, to which the people of Scotland were peculiarly attached; and, ſecondly, becauſe it proceeded upon the perſonal opinion of his Hon. Friend, unſupported by any application from the country moſt materially intereſted in the preſent diſcuſſion. The Houſe, however, would do well to recollect, that it was no part of the propoſition of his Hon. and Learned Friend to aſſimilate the law of Scotland to that of England in the firſt inſtance; on the contrary, he had not pointed out any ſpecific remedy what-

ever for the grievances complained of, but had ſimply confined himſelf to a motion for the appointment of a Committee to inquire into the exiſtence of thoſe grievances, and to deviſe the proper remedy for them, if they ſhould be found to exiſt. Viewing the queſtion in this way, he could not widely differ from his Hon. Friend; and upon comparing his ſtatement with the motion with which he had concluded, he thought it would not be a difficult matter to prove the propriety of his coincidence with him.

The ſyſtem of criminal law in England, in moſt reſpects, the Serjeant ſaid, he muſt contend to be worthy of being both admired and imitated: The authority of our courts was juſtly balanced, the rules of evidence were exactly aſcertained, and the modes of proceeding adapted to the purpoſes of ſubſtantial juſtice. But while he thus expreſſed his warm approbation of our criminal laws in general, he was perfectly diſpoſed to admit with the Right Hon. Secretary of State, that in ſome few points and particulars thoſe laws were defective: But was it not poſſible to adopt the unexceptionable part of our criminal code in Scotland, without at the ſame time introducing thoſe parts of our penal ſtatutes to which any reaſonable objection could be made? He was likewiſe diſpoſed to concur with the Right Hon. Gentleman, that the lenity of our municipal law aroſe in a great meaſure from the conduct purſued by Government in carrying its ſentences into effect, and that by means of that mildneſs and lenity the people of this country were happy, ſafe, and eaſy, under its deciſions. But did it not follow, as a neceſſary corollary from theſe conceſſions, that a ſimilar mode of proceeding with that adopted in England might likewiſe be pleaſing and ſatisfactory to the inhabitants of Scotland? His opinion, however, he was free to allow, might be the reſult of profeſſional prejudice; and therefore he did not wiſh to truſt implicitly to the firſt impreſſion which the ſubject made upon his mind. On the contrary, it was his wiſh that the buſineſs ſhould be inveſtigated ſtep by ſtep; that a cool and diſpaſſionate inquiry might be inſtituted; that if no weighty objections were made to the exiſting criminal laws of Scotland, they might ſtill continue in force; but that if grievances were found to exiſt, a remedy ſhould be applied to them, conſiſtent with the circumſtances of the country, the inclinations of the people, and the general ſtate of ſociety in that part of the kingdom.

The laſt obſervation which fell from the Right Hon. Secretary he could not paſs over in ſilence. He agreed entirely with him in reprobating the licentiouſneſs of certain publications, and in the neceſſity of repreſſing them; but he could not

not on that account admit the neceſſity of increaſing the ſeverity of the penal law, already, according to the Right Hon. Secretary's own ſtatement, teeming with ſanguinary ſeverity. From what appeared from the late diſcuſſions upon the ſubject, the crimes of ſedition and leaſing-making, it was pretty evident, were ſimilar to what we called libels againſt the ſtate. Before thoſe debates had taken place, he had not entirely made up his mind upon the propriety of certain puniſhments recently inflicted for thoſe crimes. Perhaps, in the ſtrict letter of law, they were to be juſtified; but if they were, that was the ſtrongeſt reaſon for the vote he ſhould give that night in favour of the preſent motion, becauſe they proved the neceſſity of inquiry into laws which authoriſed ſuch puniſhments being applied to ſuch offences. How then could he concur in adopting increaſed ſeverity in our Engliſh law, propoſed by the Right Hon. Secretary, when he condemned the exiſtence of criminal laws in Scotland, that in their operation and effect were too ſevere? He had already ſtated, that the Judges here were armed with the diſcretionary power of inflicting the various puniſhments of fine, pillory, and impriſonment: Was not this enough to ſatisfy the moſt vindictive ſpirit? Or could we agree to a further extenſion of puniſhments with any attention to that principle which pervades even our penal ſtatutes, that we ſhould avoid extreme puniſhments, and never apply them but on criminals convicted of flagrant and enormous offences?

By our law, as it now ſtands, there exiſted no diſcretionary power to inflict tranſportation for miſdemeanour; and it would be well worth while to recollect, that while libel was certainly a crime, the puniſhment of it was as certainly capable of abuſe. In England, in the caſes of libel, the Court, after conviction, had the power of inflicting arbitrary puniſhments, to the extent of fine, pillory, or impriſonment; the latter of which, under certain circumſtances, might be deemed as ſevere as tranſportation; but there were ſo many checks upon this diſcretionary power in England, that it could be rarely abuſed; and, perhaps, very few inſtances of its having been ſo abuſed could be ſhewn, except in times univerſally reprobated as arbitrary and diſgraceful to the Engliſh hiſtory; whereas the law of Scotland tended to introduce a diſcretionary power of baniſhment, which confounded every idea of diſtinguiſhing between one offence and another, and tended to involve every unfortunate delinquent in the ſame mercileſs condemnation. The law of England, as it originally ſtood, he contended, gave no power of baniſhing for any miſdemeanour; for the authority to baniſh, in particular caſes of perjury, was conferred

conferred by a particular ſtatute, in derogation of the common law. He ſhould lament extremely to ſee ſuch a power extended to caſes of ſedition in this country, becauſe thoſe were caſes, of all others, the moſt liable to abuſe; and wherein, of all others, the paſſions and prejudices of mankind were moſt likely to be involved and enflamed. In his opinion it would be improper to give the criminal courts the power of adjudging baniſhment on conviction of any crime againſt the ſtate which amounted to leſs than high treaſon. It ought likewiſe to be conſidered, that as long impriſonment was the puniſhment, the victim was, as it were, before our eyes: He was in a ſituation to excite the pity, and to receive the extenſion, of the royal mercy. But if Adminiſtration could ſend away all who were obnoxious to them, the object was removed almoſt beyond the poſſibility of redreſs, and the door of mercy was completely barred againſt him.

Another argument againſt the principle propoſed by the Right Hon. Secretary was, by the law of libel, as it now ſtands in this country, juries are conſtituted judges of the whole caſe as it comes before them; and it was well known how unwilling they were to convict ſince the law of libels paſſed; it was therefore worth while to conſider, whether that diſinclination to expoſe men to the ſeverities of the law, where the puniſhment was diſcretionary with the Court, or, in the Scotch phraſe, "arbitrary," might not be rendered ſtill ſtronger, if thoſe ſeverities were to be ſo unneceſſarily extended beyond the bounds either of humanity or of prudence. In addition to the arguments adduced by his Learned Friend, in ſupport of the propoſition for going into a Committee, there were one or two which had ſuggeſted themſelves to his mind, and which had great weight with him. Upon the fact of the exiſtence of a power to try for what were termed leſſer offences, without jury, and where the puniſhments were very ſevere, it happened that he had found a caſe which put the fact out of all doubt, as being of a later date than that already referred to. It was a caſe that occurred and was determined ſo lately as on the 19th of March 1783: The Procurator Fiſcal againſt Young and Wemyſs. It was an appeal from the Sheriff's Court to the Court of Juſticiary, againſt a conviction, upon the ground of exceſſive puniſhment. Upon this occaſion, the Judges of the ſuperior Court, although upon ſome other grounds, they thought fit to reverſe the judgment, yet were unanimous in declaring, that it was competent to try for leſſer offences without a jury, and to inflict arbitrary puniſhment upon conviction. If then this were the law of the country, would any Gentleman preſent ſay, that an inquiry ought

ought not to take place? Or were Members of Parliament ſo totally indifferent to a matter ſo important to the liberty and deareſt intereſts of the ſubject, as to look, and with perfect calmneſs and apathy, and ſee one-third of the kingdom deprived moſt unneceſſarily of that ineſtimable bleſſing, the trial by jury? So little did he imagine it poſſible that there did not exiſt ſomething at leaſt like a grand jury in Scotland, that until he heard it that night, he could not have believed that ſuch power could have been lodged in the hands of the Lord Advocate, a power which ought not to be lodged in any individual, however reſpectable; although he did not doubt but that it was very conſcientiouſly exerciſed by the preſent poſſeſſor. A Lord Advocate, being an officer of the Crown, was, abſtracted from all perſonal conſiderations, the moſt improper individual of all others for ſuch a power to be lodged in his hands.

It was true, that ſomething like it was known in this country, when his Majeſty's Attorney General could, *virtute officii*, put a man on his trial by filing an information. This was a power which ought to be, as, in fact, it was, very ſparingly exerciſed; but in the perſon of the Lord Advocate there was not only this power of proſecuting, but the ſtill more dangerous one of ſtopping any proſecution from his own mere *will*. He conceived he had but barely to ſtate this to an Engliſh ear to excite their condemnation of ſuch powers.

Another conſideration which weighed ſtrongly with him was, the conſtruction of petty juries in Scotland. He underſtood that out of 45 returned in the firſt inſtance, 15 were choſen to try the cauſe; not taken as we do, in regular order, but picked and choſen, as the proſecutors thought proper to ſelect, and who were to try the cauſe, unleſs challenged, upon ſufficient cauſe ſhewn againſt them. The Serjeant ſaid, he would venture to affirm, that a jury ſo choſen in this country, would be conſidered neither more nor leſs than a packed jury. So ſenſible were Engliſhmen of the difficulty of being able to ſhew juſt cauſe of objection, though ſuch might exiſt in great validity, and yet ſo conſcious were we that a jury ſhould be uninfluenced, that with us the liberty of challenging a certain number, according to the crime imputed, peremptorily, and without being obliged to aſſign any reaſon whatever, was allowed. If, then, no other ground could be ſtated why the Houſe ought to go into the inquiry propoſed, he ſhould conceive that this one fact would ſufficiently demonſtrate the neceſſity of it.

The laſt ground upon which the Serjeant defended the motion, was the neceſſity that exiſted of allowing writs of error in criminal

criminal caſes from the courts of Scotland, as well as the courts in this country, in order that their proceedings might be capable of being reviewed, and any errors they might chance to fall into, be corrected. One thing he thought his Learned Friend was wrong in, which was, his not having relied more ſtrongly on the articles of the Union, as completely proving, both in letter and ſpirit, the propriety of aſſimilating, as far as poſſible, the laws of the two countries. By the eighteenth article of the Union it was ſtipulated, "That from the time of the Union, the laws of trade, cuſtom, &c. ſhould be the ſame in both countries." Thus demonſtrating how eager they were to aſſimilate as quickly as poſſible, it proceeded to ſtate, "That all other laws ſhould remain the ſame as heretofore, but *alterable* by the Parliament of Great Britain." By this they evidently excited inquiry into their ſyſtem, and the adoption of that gradual aſſimilation which circumſtances would admit. Upon all theſe grounds taken together, it was, Mr. Serjeant Adair ſaid, that he was induced to give his hearty ſupport to the motion of his Learned Friend.

The Maſter of the Rolls ſaid, he had liſtened with great attention, and much pleaſure, to the Learned Serjeant who ſpoke laſt, whoſe ſpeeches were always replete with argument and information; but, upon the preſent occaſion, he was ſorry to ſay, that he could not agree with him. The eulogium which the Learned Serjeant had paſſed upon the law of England, came with peculiar propriety from a profeſſional man, who had for ſo long a period adminiſtered it with ſo much honour to himſelf, and with ſuch advantage to the country. He admired the Engliſh ſyſtem of law as much as any man, and ſhould be as ſorry as any man to ſee the people of this country deprived of it; but at the ſame time he could not feel himſelf juſtified in impoſing that law upon another country, without any application from the inhabitants of that country for a change in their ſyſtem, or without any complaint of a grievance which they wiſhed to have remedied. He conceived that the Articles of Union between the two countries were ſufficiently explicit upon this point. It appeared to him that it had been with obvious anxiety provided, that the law of Scotland ſhould not be changed, unleſs for the peculiar benefit and advantage of Scotland. In making this agreement, the Scots muſt have relied upon the honour of Parliament for a due obſervance of it, becauſe, from the number of members which repreſent the northern part of the kingdom, they could not prevent an infraction of it. Feeling thus, and theſe being his real ſentiments, however ſtrong his predilection, as an Engliſh lawyer, might be for the juridical ſyſtem of his own country,

country, he would not conſent to compel the inhabitants of another country to adopt that ſyſtem, who, for all he could learn, neither ſolicited nor wiſhed for the change.

Mr. Serjeant Adair ſhortly explained.

The Maſter of the Rolls alſo ſaid a few words in explanation.

The Lord Advocate ſaid, he came into the Houſe with a determination not to diſcuſs the preſent motion; he had reſolved to leave it to the ſuperior judgment of his Learned Friends around him; but really ſome aſſertions had been made, ſome interpretations had been put on the law of that country to which he belonged, that made it abſolutely neceſſary for him to intrude a few moments on the patience of the Houſe. He felt how improper it would be for him to ſuffer the Houſe to divide on the preſent motion, without removing the impreſſion endeavoured to be made by the Learned Serjeant, who, without having been bred in the juriſprudence of that country, without having paid any accurate attention to its code of laws, did not heſitate to load them with odium, and condemn them as unfit to be continued. He muſt, however, tell the Learned Serjeant, that he ought not to think of reproaching a ſyſtem of juriſprudence, till at leaſt he had made perfect inquiry what that ſyſtem was. Indeed, from what had fallen in the courſe of debate, the Learned Serjeant had ſhewed himſelf very little adequate to decide on their merits, and totally ignorant of the manner in which the Court of Juſticiary proceeded. The people of Scotland muſt, he ſaid, juſtly be incenſed, when they hear of the Britiſh Parliament debating on the policy of changing thoſe laws under which they had ſo long and ſo happily lived.

When, upon a former occaſion, an Hon. Gentleman, whom he could ſcarcely call his countryman (Mr. Adam), had attacked the law of Scotland, and repreſented it as a law of oppreſſion and of cruelty, he had felt himſelf bound not to ſuffer any Engliſh Member of Parliament to leave the Houſe with an impreſſion that thoſe aſſertions were founded in fact: He had, therefore, taken the liberty of ſubmitting ſome arguments upon the ſubject to the Houſe, which would render it unneceſſary for him to trouble the Houſe ſo much in detail upon the preſent queſtion as he otherwiſe ſhould have felt himſelf bound to do. He ſhould, however, beg leave to make a few obſervations upon ſome of the arguments which had fallen from the Hon. Mover of the queſtion. He denied that the Lord Advocate of Scotland had any ſuch powers as the Learned Gentleman had ſtated; if he really poſſeſſed ſuch powers, and they had been ſo conducted in their exerciſe as to be productive of ſuch dangerous conſequences, he begged to know,

whether any Gentleman imagined thoſe powers would have been left unnoticed and unqueſtioned from the time of the Union down to the preſent year?

The queſtion, as far as it had been argued, went on two points only, to which he would, as much as poſſible, confine himſelf: Firſt, the formation of juries; and then, the power of the Lord Advocate. With reſpect to the formation of juries, he would ſtate to the Houſe, in a few words, how that fact was, and then they would be able to judge whether there was any foundation for the charge which had been made. The mode of proceeding, he ſaid, was this: The conſtables, and other inferior officers, made a return annually to the principal Magiſtrate at Edinburgh, of ſuch perſons as were to ſerve as jurymen, which amounted to the number of ſeveral hundreds; then the clerk of the court ſtruck from among thoſe forty-five, who were to be on the aſſize for the trial: This was done without any communication between the clerk and the Court of Juſticiary, and without any communication with the Lord Advocate, who was the proſecutor; it was, therefore, nothing more than the mere exerciſe of official duty on the part of the clerk, as a matter of courſe. This liſt of the forty-five was brought to the Lord Advocate, and, with a liſt of the witneſſes to be brought forward on the trial, was added to the libel (*i. e.* indictment), and given to the perſon to be tried fifteen days before his trial came on; which, conſidering the forty-five to conſiſt of perſons living and known in the neighbourhood, was ſufficient time for the pannel to make every objection that might appear to him to be neceſſary. When this liſt came into the court, the Lord Advocate had nothing more to do with it: The judge then interfered by a very proper diſcretionary power that he poſſeſſed, and named the jury that were to try the cauſe. After naming the firſt five, the pannel was aſked if he had any objections, and if he anſwered in the negative, the fifteen were made out in the ſame manner: If any objections were ſtated, the court judged upon the validity of them *inſtanter*; but there was no practice in that court that gave the pannel a right to make frivolous objections, or to challenge the jury or witneſſes without aſſigning cauſe. Upon the circuit, the mode was in ſome degree different. The Sheriffs of the counties compoſing each circuit (in general three counties) returned forty-five perſons for each county; but as it would be extremely inconvenient to bring ſuch a number of perſons from their homes and avocations to the circuit town, the proper officer belonging to the Court of Juſticiary upon each circuit ſtruck off ſo many names until the number of the whole was reduced to forty-

five;

five; and as it was almoſt impoſſible for this officer to have any intereſt in the caſe, there was no foundation for the inſinuation, that packed juries were obtained; ſtill leſs was that obſervation founded, with reſpect to the manner of chuſing juries in Edinburgh, by the Judges calling out the names from the liſt. He had never met with any ſingle caſe in which a complaint had been made by the defendant of an improper jury having been choſen.

With reſpect to himſelf, he declared ſolemnly that he never knew the names of the jury till he came into court. It was true, as he had already admitted, that the law of Scotland did not allow the priſoner to object to the jury, without ſtating the cauſe of his challenge, as was allowed in many caſes in England; but then a defendant in Scotland had an advantage over a perſon in a ſimilar ſituation in England, becauſe he not only had a liſt of the forty-five perſons out of whom his jury were to be choſen, but he alſo had a liſt of the witneſſes who were to be produced againſt him: Theſe liſts were delivered to him fifteen days at leaſt previous to his trial; ſo that he had an opportunity, during that interval, to inquire into the character and ſituation, not only of thoſe who were to be adduced as witneſſes againſt him, but alſo of thoſe who were to ſit as his jury.

The point which had been much relied upon by the Hon. Gentleman, was the power veſted in his Majeſty's Lord Advocate, of inſtituting or of preventing what proſecutions he thought proper. If what had been ſtated upon this ſubject by that Gentleman, and by the Learned Serjeant who followed him, had been a true repreſentation of the law of Scotland, moſt undoubtedly it ought to be conſidered as one of the moſt oppreſſive ſyſtems of law that ever exiſted; but when he ſatisfied the Houſe what the law really was upon that point, he was ſure the Houſe would be of a very different opinion. The power veſted in the Lord Advocate was ſimply that of determining what proſecutions were fit to be carried on at the public expence, and in ſuch a caſe, as he thought fit for proceeding, to act as public proſecutor. He had no ſuch power as that mentioned by the Learned Serjeant, of preventing any proſecution which he pleaſed, a power which would be incompatible with the liberty of the people; becauſe, if he thought any particular caſe not fit to be proſecuted at the public expence, it was ſtill in the power of individuals, under certain circumſtances, to carry on the proſecution even in ſpite of the Lord Advocate, who was in certain caſes bound to give his concurrence. For inſtance, if a man was murdered, his brother or near relation might inſtitute a proſecution; or,

in other caſes, any perſon who could make out a ſufficient degree of intereſt, was entitled to carry on the proſecution in his name, as the law officer of the Crown. It was true, the law of Scotland did not go the length allowed in ſome countries; happily it did not allow of popular accuſations, becauſe it was not proper, that, at the malice or the whim of any individual, a citizen ſhould undergo the ignominy of a public trial, even though, upon that trial, his innocence ſhould be aſcertained. Having ſtated theſe facts, he would leave it to the candour of Gentlemen to determine, whether the aſperſions thrown upon the law of his country were founded in this particular or not. This he would venture to ſay, that, at leaſt, until the office of Lord Advocate fell into his hands, he had never heard the ſlighteſt complaint thrown out againſt the exerciſe of this power in that office.

The Lord Advocate adverted to the articles of Union entered into between England and Scotland, by which he contended, that it was clearly laid down, that the laws of Scotland could not be altered, unleſs upon ſome particular point, in which the intereſts of Scotland clearly called upon Parliament for ſuch an alteration; but it ſtrongly guarded againſt an alteration founded upon theoretical and ſpeculative principles, ſuch as the preſent moſt undoubtedly were. It was obvious that it could never have been in the contemplation of the Scots Commiſſioners negotiating the Union, that the law of Scotland was to be partially altered, or wholly changed, according to the ſpeculations or predilections of Engliſh Members of Parliament, who could not be acquainted with the general feelings of the people of Scotland, or verſed in the laws by which it is governed. The Hon. Gentleman, who was himſelf a Scotchman, he did not think was entitled to bring forward ſuch a motion in ſuch a manner; nor could he imagine that the Hon. Gentleman felt much real ſatisfaction, from the conſciouſneſs of having done what certainly was not wiſhed for or deſired by his own countrymen. With regard to the Learned Serjeant, though he had not the honour of knowing him, he was informed that his character ſtood very high as an able adminiſtrator of the criminal law of England: As ſuch, he muſt naturally feel himſelf ſtrongly attached to thoſe laws; but at the ſame time it could not be ſuppoſed he was ſufficiently ſkilled in the law of Scotland to be juſtified in ſupporting a propoſition for ſo important a change in it.

On the point of altering the Scotch law, in criminal caſes, at the Union, there was ſcarcely a ſtruggle; the Engliſh Members, though ſo much greater in point of number, were ſo ſatisfied of the juſtice of that article in the treaty, that they acquieſced

quieſced in it; and this he conſidered to be the firſt attempt, that had been made ſince that time, to ſet aſide the criminal law of Scotland altogether, and to aſſimilate the laws of a country, as independent as Engliſhmen felt themſelves to be, to the law of England.

Since the Union, only two alterations had been made in the law of Scotland by the Parliament of Great Britain. The one was with reſpect to the law of high treaſon, and the other was the abolition of heritable juriſdictions. The introduction of the Engliſh law of high treaſon into Scotland was immediately after the Union, and ſeemed to have been, from the hiſtory of thoſe times, foreſeen and intended by the Scots Commiſſioners. The Act of 1708 came recommended by a ſpeech from the Throne, and met with the approbation of both countries. With reſpect to the aboliſhing the heritable juriſdictions, that ſtep was not taken, like the preſent, without any communication with perſons in that country: On the contrary, a very long and minute inquiry was entered into relative to thoſe juriſdictions, and it was not till after full information had been obtained, that a Bill was brought into the Houſe of Lords to aboliſh them; but as compenſations were to be made to the perſons who poſſeſſed thoſe juriſdictions, it was found that it was a Money Bill, and therefore ought to originate in the Commons. A new Bill was therefore brought into the Houſe of Commons for that purpoſe: It was moved and ſeconded by the Attorney and Solicitor General, and ſupported by the Lord Advocate of Scotland. Under theſe circumſtances, he thought the two alterations he had mentioned not very likely to be brought forward as precedents for the preſent plan.

When his Right Hon. Friend (Mr. Dundas) was ſpeaking of the late decided caſes in Scotland, ſome Gentlemen had exerciſed a privilege which he ſuppoſed belonged to Members of that Houſe, viz. of crying out *Hear! hear!* meaning, as he thought, to mark their diſapprobation of the judgments then alluded to. After what he had ſaid upon a former occaſion reſpecting thoſe caſes, he would not trouble the Houſe with repeating his obſervations again: He would only ſay, that, for the laſt eighteen months, many proſecutions had been commenced upon ſimilar grounds to thoſe; and in every one inſtance, though, by the law of Scotland, a majority of the jury were ſufficient to decide, yet the defendants had been found guilty unanimouſly by juries choſen from landholders, ſhopkeepers, and from almoſt all deſcriptions of men; which he conceived to be a tolerable proof that the proſecutions had not been commenced upon ſlight or trivial grounds.

Before

Before he ſat down, he begged leave to advert to the caſe mentioned by the Learned Serjeant, of Young and Wemyſs. He did not immediately recollect the caſe, but he would take upon himſelf to ſay that it was not law; and if that Gentleman, and the Hon. Gentleman who brought forward the motion, had done him the honour to conſult him, he ſhould have been happy to have given them every poſſible information upon the ſubject. His Lordſhip concluded with giving his hearty negative to the motion.

Mr. Fox roſe, and in ſubſtance and effect thus addreſſed the Speaker: "Sir, I have often been ſurpriſed at the doctrines advanced in this Houſe; I have often prepared myſelf not to be aſtoniſhed at any deſertion which might be made: I have often had my underſtanding perplexed and confuſed: I never found myſelf ſo much at a loſs: So much amazed am I, that I ſhould be inclined to think that I had either miſtaken what had fallen from the Lord Advocate, or that I was loſt in incredible ſtupidity. That Noble Lord commenced, and concluded, with reproaching my Learned Friend who ſits near me (Serjeant Adair), with miſquoting and miſtaking the law of Scotland; but after preparing to expoſe his ignorance, after increaſing our anxiety, he did nothing more than repeat, but in louder tone, what had fallen from, and what had been aſſerted by both the Gentlemen who ſpoke ſo ably in ſupport of this motion. I really, Sir, ſuppoſed that I did not hear the Lord Advocate, or that I miſunderſtood him. My Learned Friend ſaid, that from the forty-five which were choſen for the jury, fifteen were ſtruck by the Court. What ſtatement can be more alarming to juſtice, what can be more dangerous to the liberty of the priſoner? But when the Lord Advocate comes to ſpeak on the ſame ſubject, notwithſtanding his ſurpriſe at the ignorance of my Learned Friend, he uſes the very ſame words, and ſays, that after the forty-five were given in to the Court, the judges ſelected fifteen; not as in England, by taking the firſt twelve that came, or on ſpecial juries, by ballot, but by ſelecting number one, two, or any other numbers as beſt ſuited his purpoſe; and the manner in which the firſt liſt was made out by an inferior officer of the Court, only ſerved as another additional impropriety and cauſe for alarm, becauſe it rendered packed juries more eaſily obtained; for certainly the power of the judge to ſelect ſuch as he pleaſed from the number, was tantamount to a packed jury. If the Learned Lord intended we ſhould believe my friend had miſtated the matter, he ſhould have formed ſome argument, either to ſhew the jury was not packed, or that there was no danger of ſuch an event coming to paſs.

"With reſpect to the power of the Lord Advocate, he can create proſecutions. I collect from the Learned Lord, that if the guilt of any perſon is made out, the Court will order the proſecution to be commenced; but this is with reſpect to public crimes, in which the Lord Advocate may commence or diſcontinue any proſecution: But he has treated the argument of the able Mover with great unfairneſs; he has ſaid, that my Learned Friend wiſhes to introduce the whole of the criminal law of England into his country, and on the impropriety of this meaſure he has dwelt for a conſiderable time: He ſhould recollect, that my Hon. Friend (Mr. Adam) was not ſpeaking of treaſon, of felony, of larceny, but of public crimes againſt the State: And it was only the criminal law which related to thoſe he intended to introduce; in that ſenſe I am certain the Houſe underſtood him. Did he mean any thing elſe, much as I admire his talents, and reſpect his intention, I certainly could not coincide. In many reſpects I revere the criminal law of England; but it would be after ſerious reflection, and unprejudiced conſideration, that I would conſent to extend it, with all its penal ſtatutes, to any country; becauſe there are ſeveral of thoſe ſtatutes, that contain proviſions, of which I can by no means approve. My Learned Friend meant only to introduce the criminal law which relates to ſedition; and in his examination into the law of Scotland, viewing it with reſpect to its alteration, he does not aſſert that he would change it generally, but particularly, and that only as far as relates to grand juries, leaſing-making, and other things enumerated in the queſtion. It is true there are more points than one which he wiſhes to alter; but they are all individual points; he conſequently cannot have in view the introduction of all the criminal law of England.

"The Lord Advocate has ſpoken of the Act of Union; and he ſays, by this Act we are prevented from making any change in Scottiſh juriſprudence; but he ought to have recollected, that the emphatic words of that Act not only declare what the law is, but that the criminal law of Scotland may be altered by the Parliament of Great Britain, when to its wiſdom it ſhould be deemed expedient and requiſite for the public good. He has mentioned the different laws which ſupport his aſſertion; the Learned Lord, however, ſays, that we ſhould not proceed to make any alteration, till it came recommended from the Throne, as had been the caſe in reſpect to the law of treaſon. Indeed, Sir, we have heard ſuch ſtrange things lately advanced of our conſtitution, we have ſeen it receive ſo many wounds, that we are not to be aſtoniſhed at this ſuggeſtion. Does he mean that we are to wait till miniſters come to complain

plain that the prerogative of the Crown was exerted too ſtrenuouſly againſt the privileges of the people, and that they who oppoſed their meaſures were puniſhed too ſeverely, and the law ought to be made more lenient? I cannot underſtand what the Learned Lord intends by this idle aſſertion, which means nothing; and that it does mean nothing, is the beſt conſtruction which can be put on it. The next caſe the Learned Lord ſaid, had proceeded after a previous inquiry between the Houſe of Lords and the Court of Juſticiary. I have as high an eſteem for the Houſe of Lords, in their judicial capacity, as any body; but I cannot allow them any excluſive right to legiſlate, nor that any ſuch alteration of the law ought to originate with them, for in their legiſlative capacity *pro tanto* the Houſe of Commons is in every degree equal. Indeed the Learned Lord ſaw the folly of that argument, for he was obliged to own that the Bill was rejected firſt, and came from the Commons at laſt: But then he ſaid it was carried through by the Attorney and Solicitor General; this might appear to the Learned Lord very proper, but I truſt we have not yet forgotten all ſorts of equality ſo much as to ſanction a meaſure becauſe it comes from this or that Lord in one Houſe, or from the Attorney and Solicitor General, or any Member in the other. We all have the ſame truſt repoſed in us by our conſtituents, and our duty being the ſame, ſo is the degree of reſpect to be paid to us. This queſtion, I contend, ſhould be treated as a practical one. But, Sir, there may be ſome Members in this Houſe, and I have reaſon to think there are, who have not been preſent during the late diſcuſſions; there may be ſome, who, attending curſorily, and who hearing the debate on Muir and Palmer, and on this night, may conclude theſe proceedings were legal; but I ſhall perſiſt in contending that it was no ſuch thing. Theſe are the firſt puniſhments inflicted on ſuch crimes. It is true, they argue on the other ſide, that they are legal. They argue from analogy; they admit (for obliged they are to do ſo), that in the 16th century no ſuch puniſhments were inflicted on conviction of ſuch offences; they can conſequently find no precedents to bear them out on this occaſion; in point of hiſtory, no ſuch puniſhment is awarded. In vain they ſearched; no induſtry, no trouble was ſpared. Certainly the Lord Advocate would be happy to avail himſelf of it, could any precedent be found; but, Sir, a Right Hon. Gentleman (Mr. Dundas) aſſerts, that they enjoy practical happineſs in Scotland. When did they? Let him define the date, and name the period. Was it under the reign of Mary, or the two firſt Stuarts? Was it at the Union of the two Crowns, in the reign of Charles the Second, or his brother James?

James? If any there has been, it muſt be ſince the Union or Revolution: But theſe crimes were never puniſhed with ſuch dreadful ſeverity till within theſe eighteen months; and no precedent can warrant that ſeverity, except the infamous and abominable precedent of 1704. He ſays he likes the criminal law of England, but that of Scotland better; he will not therefore conſent to alter it: And he doubts whether it can be altered. Was it not altered by Parliament ſince the Union? Did we not change it with reſpect to treaſon in 1708? Yet in the reign of Anne, when we did change it, we were not conſidered guilty of a breach of faith.

"But does not every circumſtance of the late proceedings dictate the propriety, nay more, the neceſſity, of going into an inquiry? What was advanced by one of the Judges of the Court of Juſticiary on a late occaſion? "New crimes (ſaid the Judge) ariſe from the new ſtate of things; and courts, not legiſlatures, are to find new and adequate puniſhments." From the time of the Union, down to the preſent, no ſuch puniſhment is found. The circumſtances of the country are new; the Lord Advocate is puzzled; he finds no precedent for a century; he looks for the law. Where does he endeavour to find it? Not beyond the Union; no, but beyond the Union of the two Crowns; and not finding it any where, he has recourſe to ingenuity; he reaſons from analogy, and finds he may tranſport theſe culprits to Botany Bay. This is a new caſe, for which there is no puniſhment preſcribed by ſtatute; no precedent to ſupport it; nothing which can warrant it, but an argument from analogy. For my part, I think the new method of puniſhment in Scotland as dangerous as the old method in England is adequate. "What then is it we ſay "to you? We tell you, We live in a country not totally "exempt from the crime of ſedition, though we allow there "never was leſs of it than ſince the acceſſion of the Houſe of "Hanover; we, who are well acquainted with the crime, "are able to judge what is the puniſhment ſuited to the of-"fence: We know that in point of fact, the puniſhment in-"flicted in this country is ſo adequate, that ſedition was never "leſs complained of. We have practice in our favour: You "are totally ignorant of the crime, and equally ignorant of "the puniſhment ſuited to the crime; you may have had "more confuſion in your country for the laſt century than "we; but we think a few libels, and one or two mobs, better "than two rebellions: This crime to you is new, to us it is "old; we tell you your new remedy is dangerous; our old "one we find adequate; we therefore with to recommend "it."

" But whilſt we are kindly interfering, whilſt we are offering our friendly advice, we are told that we are ſpeculatiſts, that we are no judges; we are incapable of dictating. When we offer part of the criminal law of England, and tell you that impriſonment is the puniſhment ſuited to the offence, you return for anſwer, that impriſonment for many years is worſe than tranſportation. This, Sir, I deny. Impriſonment cannot be compared with tranſportation for fourteen or even ſeven years. But what is the caſe in this country? The puniſhment in few caſes of libel has exceeded two years; the longeſt I ever heard was five years. And that, Sir, give me leave to ſay, was not a proceeding which reflected the higheſt honour on the country (Lord George Gordon's impriſonment). But for a miſdemeanour, I know a ſingle inſtance of ſeven years impriſonment having been inflicted. Does any one think ſeven years impriſonment is equal to the offence of ſedition? Indeed, Sir, when I heard of this ſevere puniſhment being inflicted on a man in this country, and when I ſaw it connected with the name of the Judge, for whom I have a perſonal eſteem (being no other than my Learned Friend, when Recorder of London), I inquired what crime the priſoner could have committed; but found he was convicted of an offence little ſhort of murder, and that the miſdemeanour was aggravated by ſeveral other ſhocking offences. Surely, the crime of ſedition does not require a greater puniſhment than that which our conſtitution inflicts on thoſe convicted of the moſt heinous offences!

" The Learned Lord has gone into clergyable offences; but, Sir, arguing about felonies has nothing to do with the preſent queſtion; this conſtitution could not have been preſerved, if we did not obſerve a greater jealouſy with regard to State crimes than any other. I cannot ſuppoſe there will be a deſire in judges and miniſters to preſs exceſſive puniſhment in caſes of petit larceny, or other ſmall offences; but I can well imagine that puniſhment may be preſſed againſt thoſe who oppoſe their meaſures, or are obnoxious to their ſchemes; the jealouſy ſhould be greater where we have any reaſon to ſuppoſe men high in power may be actuated by improper motives.

" Treaſon is the ſame in both countries, nor can I ſee any ſort of difference with regard to ſedition; it was not more local than treaſon, and was equally directed againſt the King of Great Britain, in whatever part of the kingdom committed; the puniſhment therefore ought to be the ſame on both ſides the Tweed.

" But,

"But, Sir, I muſt take notice of what has fallen from a Gentleman relative to juries (the Maſter of the Rolls); I believe what he ſays is not the fact. He ſays ſheriffs name twelve men to ſit on juries; they do no ſuch thing; they chuſe ſixty men, and twelve are choſen; the priſoner's having a right to challenge. In this country there is nothing like the ſame danger therefore of a jury's being packed, as there is in Scotland. But ſuppoſe ſedition to be an Engliſh crime, and that an Engliſhman in Scotland publiſh a libel againſt the Government of this country, he muſt by the laws of Scotland, be tried by principles totally different from Engliſh. How abſurd! An Engliſh crime ought to be tried by Engliſh laws, and by Engliſh principles. I confeſs I feel, Sir, the importance of this queſtion; I feel the Houſe has the greateſt intereſt in the motion made this night; and conſidering the queſtion in the bare particular view of ſedition, there is ample ground for going into inquiry: We ſhould know what it is; that we may not comment upon, ſpeak about, write of, or venture to propoſe reforms in Scotland. If in England I am accuſed of ſedition, it is not the general crime which is laid to my charge; there is ſome ſpecific act ſtated: Suppoſing even the act I am accuſed of proved, and that I am found guilty, if it does not appear a crime in the eyes of the law, I ſtill ſhall be relieved; but what is the caſe in Scotland? The general crime is ſtated in the indictment: I have ſeen the general crime the major propoſition of the ſyllogiſm in the caſe of Mr. Gerald: But the Lord Advocate treats with levity the idea of packing juries; and he tells us with triumph, that in all the late proceedings the juries were unanimous. What does this argument prove? Nothing. It is true they may all be unanimous, but ſurely they ſtill might all have been collected under the eye of the officer, and direction of the Court; but, good God, Sir, however I may diſagree with many of my friends on other topics, will they not all agree with me in this? Will they not all ſee its danger in the ſame view that I do? Will they not all coincide with me in declaring, that no man is ſafe, no man's liberty is ſecure, if he can be charged generally on the crime of ſedition.

"I am taking the late proceedings, for argument's ſake, to be ſtrictly conſonant to law; though God forbid I ſhould ever be inclined to think them ſo; yet is there not ſomething, with reſpect to the evidence in thoſe caſes, which calls for your interference? You recollect the production of Anne Fiſcher, that infamous witneſs, that domeſtic ſpy, whoſe teſtimony I cannot recollect without ſhuddering at it; yet ſhe, and other ſuch witneſſes, were produced as to the general charge of ſedi-

tion.' Do I ſtand in a Britiſh Houſe of Commons? Which of you is ſafe, if charged on the general ground? If every action is to be examined, if evidences from different quarters are to be collected to prove different charges, without any ſpecific act being ſtated in the indictment, I appeal to every man, who hears me, is there any liberty in the country where ſuch practices are allowed? Which of us can be comfortable in our minds, if ſuch doctrines are countenanced? Let us ſet free our countrymen on the other part of the iſland. Let us go into the Committee; and let us both legiſlate and declare; the people of Scotland have a right to expect both; and I hope, when the Houſe becomes more accurately acquainted with the proceedings, I ſhall ſee the ſentence itſelf condemned, the mode of conducting thoſe trials cenſured, and the production of that infamous witneſs Anne Fiſcher reprobated, and looked on with diſguſt. What, Sir, is not a man to ſay out of doors what has been advanced within the walls of this Houſe? Is a man to be puniſhed by tranſportation for advancing political ſentiments, which, if declared here, would be taken no notice of? Has no one in this country a right to think or ſpeak on political queſtions but Members of Parliament? Indeed, Sir, if general ſedition is allowed as a charge, and ſuch witneſſes as Anne Fiſcher are produced to maintain and ſupport it, I can eaſily conceive the danger of delivering ſentiments freely in any place.

"I recollect, when I was a boy, attending the debates in the gallery of your Houſe, a ſentiment fell from the late Earl of Chatham, which warmed my breaſt with admiration; and which did him more honour in my eyes, than many things that have ſince been related of him. The American war was then extremely popular, and a Member having aſſerted that there was a rebellion in America, "I rejoice (ſaid this great man) that America has reſiſted: I rejoice that ſhe has ſhewn that ſymptom of Britiſh ſpirit and Britiſh blood in her veins; and I hope it will flow unimpaired to her deſcendants, till they have accompliſhed all they merit." This raiſed him high in my eſtimation; this ſplendid ſentiment he never after denied; for though he left this Houſe, it is well known what he uniformly adviſed in another. If he was in Scotland at that time, and if miniſters had an opportunity of proſecuting theſe words before the Court of Juſticiary, his ſentence would have been tranſportation: Or perhaps this puniſhment would not have been ſufficient; and if one of thoſe Judges who lately preſided, had then the direction, the torture might have been introduced as alone adequate. But, Sir, is not ſedition the moſt likely charge that men may unjuſtly ſuffer, eſpecially

if

if the ſpecific act be not mentioned? I again repeat it, if ſuch a proceeding is countenanced, there is not a ſpark of liberty; and if ſuch evidence is to be permitted, there is an end to ſecurity of liberty or life.

"But, Sir, allow me to ſay a few words in anſwer to a challenge thrown out by a Learned Gentleman (Mr. Dundas): Does he mean to ſay that, intruſted, as he is, with a great employment in this country, and conſequently enabled to know the extent and application of the criminal laws of Scotland, that he thinks thoſe laws inadequate? Why then, Sir, reflecting on his ſituation, and ſeeing all the truſts that are repoſed in him, does he ſuffer crimes to be inadequately puniſhed? Will he, forgetting his ſituation, ſit ſupine and inactive, and leave them unpuniſhed? Or, will he act the more manly part, and ſay, I cannot ſit and ſee ſuch crimes puniſhed in ſo inadequate a manner, without attempting to alter them. Which will he do? Will he prefer the latter? If he does, I give him credit for his courage and his conſiſtency, abſurd and eccentric as the idea of increaſing the puniſhment is: If he does not alter them, I cannot give him credit for either courage or conſiſtency: If he attempts to alter them, I then give him credit for his courage; for others have been "*very ſeverely*" puniſhed for leſs dangerous attempts. If, Sir, from various things which have happened in another country, the Right Hon. Gentleman thinks the name of liberty unpopular, I ſhall conceive him to be void of courage, if he does not flatter that power which ſmiles on him; and if he does not enter into hoſtility with general liberty, he will in that caſe be neither conſiſtent nor courageous. But this aſſertion of that Hon. Gentleman on the laws being inadequate, is not an aſſertion which has accidentally eſcaped in the warmth of debate; it muſt have been an expreſſion carefully conſidered, and minutely examined; it has been ruminated over for four or five days; nor, Sir, is it to be received with indifference from that Gentleman; his official ſituation makes every thing which comes from him of conſequence. The Gentleman does not ſay he advances this, becauſe he is dared to it: I would nevertheleſs adviſe him to beware how he meddles with the liberties of Engliſhmen. I would adviſe him to conſider well before he increaſes puniſhment; and I would alſo requeſt him to treat our laws with ſuitable reſpect. Let him not think them inadequate till he makes ſome motion to that purpoſe, and aſcertains whether this Houſe thinks with him on that point. For my part, I never found the laws inadequate, without moving an amendment to thoſe laws; but I am aware, Sir, he may get over the expreſſion, in one manner; he may ſay the laws

laws are inadequate, but the danger and the risk run in changing them will not compensate for the advantage that may be derived. But, Sir, I like not these declarations or insinuations; and I am firmly satisfied that something ought immediately to be done to correct this abuse of law in Scotland, and to put an end to the specious tyranny practised under the pretext of administering justice in that part of the kingdom."

The Attorney General rose, and observing that *Mr. Burke* was also on his legs, and that many in the House called upon the Right Hon. Gentleman, said, that it gave him pain to detain the House at so very late an hour, and still more to interrupt the Right Hon. Member; and he begged that the Right Hon. Gentleman and the House would excuse him for taking up a little more of their time, to discuss a subject in which he was professionally engaged and had been personally alluded to. A Right Hon. Gentleman, on a former occasion, as well as on that night, had done him the honour to give to him the credit of a transaction which he could by no means think of ever tacitly assuming to himself; but give it to those to whom it belonged; he meant, the treatment of Mr. Winterbottom, which was, in fact, the voluntary act of the court, who, the day before he interfered at all, had expressed a wish and an intention not to send a Gentleman to the same prison with felons and vagabonds. He disclaimed, therefore, all other merit in the transaction, than seeing that the judgment of the court was executed.

. . . . . .

The Right Hon. Gentleman who preceded him had said, that he disapproved of the punishments inflicted on the prosecution of some offenders lately, considering them to be altogether unprecedented. In answer to this, he would say, that if the punishment was unprecedented, the offences were novel, and required an extraordinary remedy. They were the offences of persons acting by system, in combinations and bodies, for the avowed purpose of subverting the established government; and to that end, publishing libels of a kind never before seen or heard of: And so well convinced was he of the truth of the fact he was about to state, that he would stake his reputation upon it, that, on a due examination and comparison of the determinations and sentences of our courts for any period since the Revolution, even of those Judges most revered and remembered as patriotic and constitutional judges, with those of the last two years, the latter would be found extremely mild and lenient. For his own part, as Attorney General, since he had been honoured with that office, he had not claimed any particular punishment, conceiving that it was not any part of his province to interfere with what properly belonged

longed to the court alone, his duty being no more than to bring the offender before the court for judgment.

The Right Hon. Gentleman (Mr. Fox) had not in his judgment ſtated one reaſon ſufficient to induce the Houſe to accede to the motion—a motion not confined to any particular point, but which went to alter the whole criminal law of Scotland, eſſentially to ſubvert the eſtabliſhed ſyſtem of their courts, to change the proſecutors, to change the jury, to change the indictment on which the charge was tried, to change the right of challenge, the evidence, the verdict, and the ſentence on that verdict; and that in every caſe and every crime, and on no other grounds than the caſes of two individuals: And yet, while the motion involved all thoſe circumſtances, Gentlemen would venture to inſiſt that it did not go to an alteration of the whole of the criminal laws.

One of the moſt material grounds to be taken into conſideration was, Whether it was neceſſary, expedient, or politic, to change the whole habits of juriſprudence, and the conſtitution of the courts of a country? The Attorney General ſaid, he would repeat what had been before ſaid, viz. that there was an indiſſoluble compact, a firm treaty in the way, which no ſophiſtry could get over; for it was idle to ſay, as had been urged, that the eighteenth article of the Union permitted, much leſs invited, the ſubſtitution of the criminal laws of England in the place of thoſe of Scotland. The nature of criminal juſtice, both in Scotland and England, was perfectly well known at the time of the Union, and had been ſo ever ſince, to this day; and yet he could not, in all that time, find a ſingle attempt to exerciſe that permiſſion, or accept of that ſuppoſed invitation, which it was reaſonable to ſuppoſe would have been done, if the change was at all in the contemplation of thoſe who bore a ſhare in that Union; ſo that the treaty would, if the change propoſed by the motion then before the Houſe was applied, be completely broken, and there would be an end of the faith pledged by the Articles of the Union; and, indeed, it muſt appear aſtoniſhing, that if the invitation to ſubſtitute the laws of England was ſo plain as the Learned Serjeant had endeavoured to perſuade the Houſe it was, the patriots of England and Scotland never ſhould have found out till lately, that all the criminal proceedings of that country were a nuiſance, and that they ſhould remain ſo long unredreſſed and unaltered, even while the Hon. Gentleman himſelf (Mr. Adam) repreſented it in Parliament.

With regard to what had been ſaid of evidence having been given on the trial of Muir, out of the matter charged in the indict-

indictment, it would be found to loſe much of its weight when gravely and maturely conſidered. He would not deny that it would be convenient to juſtice, if it were poſſible to have all the facts laid in the indictment: But he wiſhed Gentlemen to recollect, that, in proſecutions for treaſon, evidence might be given of overt-acts, though not charged ſpecifically in the indictment, ſo they were of the ſame nature with thoſe charged; and he could ſee no reaſonable objection why they ſhould not, if it were the law, as appeared to be the caſe, give evidence of the ſame kind on criminal caſes in Scotland.

The Attorney General proceeded to ſhew, by a fair comparative ſtatement, that the Lord Advocate of Scotland had not more power, nay, not ſo much, as the Attorney General of England. The power of the former was more actively exerciſed, but not in a ſtronger manner or with greater effect. Both had power to proceed in the proſecution of criminal caſes. The Lord Advocate could only ſtop thoſe cauſes in which the proſecution was carried on at the ſuit of the Public; whereas the Attorney General could, by his *noli proſequi*, ſtop all and every ſort of criminal cauſe. He, for his part, however, dared not do it; becauſe, however legal it might be, he ſhould conſider it as a breach of his fidelity and duty to the Public.

On the head of diſcretion, which it had been ſaid was veſted to an inordinate and dangerous extent in the judges of Scotland, it would be found upon examination, that full as extenſive a diſcretion was left in the breaſts of Engliſh judges: In various caſes, they had the power of ſentencing to pillory, fine, impriſonment, &c. &c. inflicting as to their diſcretion ſeemed proper. In ſome inſtances, he would maintain that the laws of Scotland were ſtill more favourable than thoſe of England to delinquents, and he would ſtate a fact, which, however he muſt lament it, was certainly true, in elucidation of his aſſertion, namely, that it conſtantly happened, that men were tried for crimes which were by the law deemed capital offences, and therefore ſubject to capital puniſhment, yet, to which it was ſo horrible to both judge and jury to aſſign capital puniſhments, that the judge has not infrequently charged the jury to a find a verdict under a ſhilling, where the article in queſtion was obviouſly worth ſome pounds; and where the jury, acting from the ſame principle, had thought it their duty to comply with that charge. In Scotland, too, arbitrary puniſhments were annexed to a variety of crimes which in England were puniſhed with death; and even

that arbitrary ſentence was as much a ſubject of the mercy of the Crown, as the compulſory capital ſentence of an Engliſh criminal court.

The Right Hon. Gentleman had taken up, but without the ſmalleſt foundation, an expreſſion which had fallen from his Learned Friend, and thence endeavoured to infer that his Learned Friend had meant that an alteration in the laws ſhould originate with the Crown. He denied the inference; but would at the ſame time ſay, that as the treaty of Union was made by the Crown, any meaſure, that at all touched Scotland, would come much more properly from the Crown or its ſervants, than from any other perſon, as the King's miniſters were more likely to know the feelings and diſpoſition of that country on the ſubject. Had that been attended to, the preſent diſcuſſion would have been ſaved; for not one whiſper of complaint againſt thoſe laws ever came from the perſons concerned in their operation. Upon various appeals to the Lords, the queſtion had been repeatedly decided, that appeals would not lie; and yet no attempts had been made, no wiſhes hitherto expreſſed, to alter the laws in that reſpect.

Mr. M. A. Taylor declared, that he would reſt his vote on the arguments which had been uſed by his Hon. Friends; becauſe they were ſuch as ſtood unrefuted; and he could ſay, with truth, that, in voting for the motion, he never gave a vote that was more ſtrictly in uniſon with his conſcience, than it would be on the preſent. He never would ſit ſilent, and hear it ſaid, that the ſevere ſentences paſſed on Meſſrs. Muir, Palmer, Margarot, Skirving, and Gerald, were legal, but would on every ſuch occaſion riſe and heartily diſſent from ſuch a propoſition. He inſiſted that the criminal law of Scotland required alteration; but, on a former night, a Right Hon. Gentleman (the Chancellor of the Exchequer), inſtead of anſwering his arguments, aſſerted that he had a very loud voice. If it were ſo, he declared that he was determined to exert it in the cauſe of freedom; and, like the Hon. Gentleman, who was not leſs loud, he would not exerciſe it againſt the liberties of his country, and for the purpoſe of preſerving that power and thoſe places which he enjoyed. Mr. Taylor mentioned a circumſtance with reſpect to Mr. Gerald, which he ſaid he knew from the beſt authority to be an indiſputable fact. He had objected to the Chief Juſtice Clerk ſitting in judgment on him, becauſe Mr. Gerald had been aſſured that he had made uſe of expreſſions againſt the priſoner. The Chief Juſtice, it was true, withdrew; but the other judges over-ruled the objection; and what would the Houſe imagine was the conſequence? that which they would ſcarcely believe, *viz.* that one

of the judges pronounced, that this was an aggravation of the priſoner's guilt. Mr. Taylor ſaid, he would not dwell longer on the ſubject, but would put it to the Attorney General, if he would have acted in the ſame manner, had he been in a ſimilar ſituation? No, he ſaid, he knew him too well, and he was convinced that his ſentiments would have recoiled at the idea.

Mr. Adam, in reply, declared, that he would not have riſen at all, had not the Lord Advocate's manner of arguing obliged him not to be ſilent. His Lordſhip had ſaid, no communication of an intention to bring forward ſuch a queſtion had been made to him, as if he meant to complain of the perſonal incivility. Mr. Adam ſhewed that the public notice, which he had given the laſt Seſſion, was all that could be required conſiſtently with the practice of Parliament, and was ſufficiently public and notorious. He ſaid the ſame applied to the court, that the mode he propoſed was moſt deliberate, and nobody could pretend to have been taken by ſurpriſe. He reprobated the doctrine of queſtions of this ſort coming only from the Throne or the other Houſe, as tending to deſtroy the deliberative function and capacity of the Commons. He ſtated that the Articles of Union formed a preliminary objection, which was falſe in law, as had been ſhewn; and he would undertake to prove that it was equally falſe in practice. The Lord Advocate had laſt Seſſion brought in a Bill to alter the Tithe Law, that ſtruck directly at private right, a circumſtance which could not be imputed to his propoſition. Mr. Dundas, he ſtated, had brought in a Bill to alter the Court of Seſſion fundamentally; that Bill ſtruck at the conſtitution of the Courts, his did not; for it was not true that chuſing the jury properly, diſturbed the conſtitution of the trying tribunal. Did any body think ſo, when the Ballotting Act was introduced into England? The conſtitution of the Jury in Scotland, their power, and numbers, were to remain as at law they now exiſted. But they were not to be nominated from the 45 by the court. [Mr. Adam ſhewed that his ſtatement had been correct as to the nomination of juries.] He ſaid, that, by ſome unaccountable aſſociation of ideas, Mr. Dundas had aſked if he meant to alter the church of Scotland? If he were to anſwer ſo odd a queſtion, he ſhould ſay, no; but that he (Mr. Dundas) had propoſed ſo to do at a memorable æra of this country, namely, in the year 1780. The Right Hon. Gentleman propoſed an alteration in the popery laws of Scotland. Was it then ſtated that this ſtruck at the treaty of Union? Here were therefore three glaring inſtances—Tithes, Court of Seſſion, and Popery, all trenching on the Union, and all brought forward by thoſe Gentlemen, who that day oppoſed his motion. The

pro-

propoſition that he had ventured to bring forward, on the contrary, was ſtrictly within the 18th Article, as matter of public law and police. Was there any necromancy that made all the things which had been done by thoſe Gentlemen right; but wrong, if attempted by him, or thoſe near him? He argued from the clauſe reſpecting heritable juriſdictions, which, though clearly imperative, was not regarded when policy required the abolition. He next ſhewed that the Lord Advocate's power, in deſerting the diet (proſecution) was irreſponſible, and that the Attorney General's *noli proſequi* was a reſponſible power. He alſo quoted the caſe of Dundas indicted, in 1712, for ſpeaking and acting in favour of the Pretender, where the proſecution was deſerted without any perſon being accountable for deſerting it; and after putting theſe and other points very forcibly in different views, he ſaid, "It is impoſſible to contemplate theſe proceedings, without reflecting on the hiſtory of the cloſe of the laſt century. The Right Honourable Gentleman (Mr. Dundas) has, notwithſtanding, declared, that it might be wiſe to follow the ſyſtem of the law of Scotland here. It is a threat which, I believe, the Right Honourable Gentleman will not attempt to execute; and yet the very threat reminds me of that diſgraceful period alluded to." The trial of Mead and Penn, in 1670, was known to all who knew the legal hiſtory of that period, when thoſe perſons were tried for ſeditious ſpeaking. The jury found a verdict which the court did not reliſh. The recorder (not ſuch a one as his Learned Friend Mr. Adair had been) determined that they ſhould find another verdict. He went to extremities, and, upon the objection of Penn, he ordered fetters to be brought. Penn ſaid, "Do your pleaſure; I matter not your fetters."

The Recorder. "Till now I never underſtood the reaſon of the policy and prudence of the *Spaniards*, in ſuffering the Inquiſition among them: And certainly it will never be well with us, till ſomething like unto the *Spaniſh* Inquiſition be in *England*.

To the Jury he ſaid,

"Gentlemen, we ſhall not be at this trade always with you; you will find the next Seſſion of Parliament, there will be a law made, that thoſe who will not conform, ſhall not have the protection of the law."

In like manner Mr. Adam ſaid, we were told at this day, "that the ſeverity of the Scots law ſhould be the pattern for England. We underſtand the Scots policy and prudence; it will never be well with us, till we have ſomething like it here; and in the next ſeſſion of Parliament there will be a law." Mr. Adam ſaid, he believed there might be inclination enough, but

there was not courage enough to propoſe ſuch a law; that, at any rate, his motion was meant to avert ſuch an attempt; and he could not forbear remarking in that place, what had fallen from a Learned Lord, that he (Mr. Adam) did not perhaps feel ſatisfied with what he had moved. He ſaid he had not brought the matter forward without the moſt mature deliberation; and that he was ready to lay open his intentions and motives to the moſt ſcrupulous inveſtigation.

The Houſe divided on the Motion,

For the Motion 24
Againſt it 77

Majority 53*

HOUSE OF LORDS.

WEDNESDAY, *March* 26.

Lord Grenville laid before the Houſe the papers which had been moved for by *Lord Lauderdale* on the 25th, *viz.* the Circular Letter to the Lords Lieutenants of the ſeveral counties, the plan for augmenting the forces for the internal defence of the country, and the plan for raiſing companies of infantry to man the batteries on the coaſt.

THE ADDRESS.

Lord Grenville ſaid, that after the expreſſion of their ſentiments, which had on more than one occaſion been made by their Lordſhips, he was perſuaded there could be but one opinion in that Houſe with reſpect to the Motion he was about to make, and therefore, as he had not the ſmalleſt reaſon to ſuppoſe their Lordſhips had changed their ſentiments, he would, without further preface, move, "That an Addreſs be preſented to his Majeſty, moſt humbly thanking his Majeſty for his gracious communication, and for that reliance which he had placed on the concurrence of the Houſe, and on the zealous exertions of his people; and aſſuring his Majeſty, that the Houſe was moſt cheerfully diſpoſed to concur in every meaſure which he might deem requiſite for the defence of the kingdom, in the juſt and neceſſary war in which we were engaged."

The Earl of Lauderdale ſaid, he roſe not to oppoſe the Addreſs, but to complain of certain words introduced into that Addreſs. He could have wiſhed that it had been drawn in ſuch a manner as to have been altogether unexceptionable.

* By an error of the preſs, page 332, the numbers on the diviſion were miſplaced; they ſhould have ſtood thus:

Ayes (for the Bill of Indemnity, moved by Mr. *Grey*) 41
Noes - - - - 170

Majority 129

When

When unanimity was ſo deſirable, and might ſo eaſily have been obtained, why was the war declared to be "juſt and neceſſary," when it was well known that there were Noble Lords in that Houſe, who had uniformly oppoſed the war, on the grounds of its being unjuſt, unneceſſary, and impolitic? He ſaw no good reaſon for uſing the words "juſt and neceſſary," as deſcriptive of the war in the Addreſs; they were not called for by the occaſion, nor could they be intended for any uſeful purpoſe: Perhaps the object of introducing them, was to provoke thoſe, who oppoſed the war upon principle, to withhold their votes that day, and thus break in upon that unanimity that would otherwiſe prevail. In the Meſſage of the preceding day, there was nothing that made the words to which he objected neceſſary in the Addreſs; and conſidering that every Noble Lord in that Houſe was inclined to give every poſſible aid to his Majeſty, that the emergency required, he was ſurpriſed that miniſters could introduce words that provoked obſervations, which would never have been made had they been left out of the Addreſs: He could not ſuffer them to paſs unnoticed, leſt it ſhould be conceived, that by his remaining ſilent, he aſſented to the propoſition, that the preſent was both a juſt and a neceſſary war. It was a war which he ever had, and ever ſhould continue to reprobate; a war that was, in his opinion, both unjuſt and unneceſſary; one by which this country could not be benefited, but in which every thing was hazarded. He ſhould, he believed, ſupport the Addreſs, as the Meſſage had been different from that which he had expected, and which he ſhould have felt it his duty to argue againſt. He was glad to find that miniſters had changed their opinions, and that his Majeſty ſtated the ground of calling upon Parliament for further ſupport, to be a profeſſion of the French to invade the kingdom. In that caſe, though he ſo highly diſapproved the war, he ſhould certainly ſupport the meaſure of putting the country into ſuch a ſtate of internal defence, as might enable it to repel the attacks of thoſe whom we have made its enemies; and he truſted that whatever was the light in which his conduct, and the conduct of thoſe with whom he had the pleaſure and the honour to act, might be repreſented, he was ſure that they would be found, whenever conſtitutionally called upon, among the firſt to ſtand forward to give his Majeſty their hearty and cordial ſupport in the defence of the kingdom. The Addreſs, in every other part, but that to which he had particularly alluded, was, in his mind, unexceptionable. He never would have hinted any ſort of oppoſition on the ſubject, as he had done on a former day, if he had known that the Meſſage was to be worded as he now found it, becauſe, when he conſidered what had formerly been ſaid,

he underſtood, that the Meſſage was to aſk their Lordſhips' approbation to the plan of augmenting the land forces, in a manner that was equally new and unconſtitutional; whereas, if the ſenſe of it, and the words in which that ſenſe was expreſſed, only ſtated, that, in conſequence of an expected attack and invaſion from the enemy upon this country, his Majeſty had thought it neceſſary to augment his land forces, and called upon that Houſe for their aid; it was an aid, that he was ſure, under ſuch circumſtances, every man in the country would grant. Having ſaid thus much, and only wiſhing, for the ſake of unanimity, that the words to which he had alluded, had not been introduced into the Addreſs, it was not his intention to ſay more upon it.

With regard to the papers on the table, he entertained a very different opinion: He conceived them to be of a nature perfectly unprecedented and illegal, in ſo far as they went to give powers to the Crown which had never been given, and were always looked after in the moſt jealous manner. He meant a grant to raiſe an armed force within the kingdom, and to allow ſubſcriptions to be appropriated by the Executive Government, and at its diſpoſal: He thought that, as far as concerned the external ſafety of the country, miniſters were doing right, by taking every ſtep to ſtrengthen it againſt the dreaded attack from the enemy; although he could not allow them any credit for the conduct they had purſued, and which had brought the country into ſuch a ſituation as that in which they now found it to be. Had he, or any of his friends, laſt year predicted the probability of ſuch an emergency, they would have been told, that they were Jacobins in principle, and that their minds were ſo diſtorted, and their heads ſo deranged, by French principles and French connexions, that they were talking in the moſt wild and extravagant manner, about matters that not only did not exiſt then, but were never likely to have exiſtence. At that time, after all the alarm that they had been able to create, it had been ſaid, that two thouſand men ſent over from this country had ſecured Holland, deſtroyed the greater part of thoſe miſcreants who had over-run Flanders, and would ſoon annihilate the reſt; and now, when all theſe chimerical fears were ſcouted, even by thoſe who had propagated them laſt year, miniſters found it neceſſary to call for the ſtrongeſt ſupport that the country could give, while they boaſted, at the ſame time, of the great ſucceſſes and advantages we had obtained, as much as to prove that the principal alarms of laſt year, though falſe and imaginary at that time, had, by an unfortunate train of events, become real now, and wore a moſt ſerious aſpect. To avoid riſing again, his Lordſhip ſaid he would take that opportunity of giving notice, that, on Friday the

the 29th, he would offer a motion, to bring the legality of levying troops by private ſubſcriptions under their Lordſhips' conſideration. The Houſe was ordered to be ſummoned for that day.

Lord Sydney roſe to ſay a very few words, in order to take ſome notice of the Noble Earl's diſpleaſure, at their having preſumed to expreſs the ſentiments they felt, and had avowed as a Houſe of Parliament reſpecting the war. Would it have become their Lordſhips to have been afraid of calling it a juſt and neceſſary war, in order to court a little temporary appearance of unanimity, by thus condeſcending to ſink their own opinions, in compliment to thoſe who had choſen to deny that the war was juſt and neceſſary? So highly, his Lordſhip ſaid, did he think it proper to avow their ſentiments on the ſubject in the face of the country and of the world, that notwithſtanding the great deference he entertained for his Noble Friend the Secretary of State, had the words "juſt and neceſſary" been left out of the Addreſs, he believed he ſhould have moved an amendment for the ſake of inſerting them. In no war had England ever been engaged that was either ſo juſt or ſo neceſſary. The blood-thirſty people of France, whom he was at a loſs by what name to addreſs, had threatened that we ſhould have neither King nor Conſtitution, but that we muſt adopt their ſanguinary mode of government. He could aſſure the Houſe, that in every county in which he had been, there was the moſt general unanimity to ſupport his Majeſty's government. Doubts had been entertained in ſome parts only, as to the manner in which that could moſt effectually be done. He therefore concluded, that the war was not only juſt and neceſſary, but that it was felt by the country at large to be ſo. He did not at any time, however, expect much unanimity or much ſupport from the Noble Earl, and thoſe Peers who oppoſed every meaſure of Government, though calculated to promote the purpoſes of the war; and by that means ſecure a ſafe and honourable peace. In that Houſe, a few and a very few might think differently of the war; he left them to the enjoyment of their own opinion, and would content himſelf with giving his moſt decided approbation to the Motion for an Addreſs.

The Earl of Derby declared, that he had not intended to have ſaid one word, but he roſe to reſcue himſelf from the inſinuation thrown out by the Noble Viſcount in the latter part of his ſpeech, an inſinuation ſo little called for by any thing that had fallen from his Noble Friend, who had ſpoke before, that if he could ſuppoſe the Noble Viſcount would wilfully miſconſtrue any Noble Lord's words, he ſhould be led to imagine that he had miſconſtrued the words of the Noble Earl. In common with him and other Noble Lords, his Noble Friend had

had uniformly oppoſed the war, as a war that was unneceſſary, unjuſt, deſtructive, and dangerous to the beſt principles of the conſtitution, and the deareſt intereſts of the country. Upon thoſe grounds they ſhould continue to oppoſe the war, and to repeat their ſentiments upon it in that Houſe and to the country at large, as often as occaſion, in their judgment, rendered it neceſſary; but did it therefore follow, that they would be leſs willing than other Noble Lords to give their ſupport to the Crown, where the exigency of the caſe called for it, or that they were leſs zealous, ſteady, and ſincere friends to their King and Country than any deſcription of men whatever? So far from it, that in the preſent inſtance, when his Majeſty in his Meſſage ſtated that the French threatened to invade the kingdom, and at any time if there ſhould be an inſurrection, a rebellion, or a civil war in the kingdom (which had once been held as a matter of alarm, but he believed was no longer dreaded, and indeed neither of which he had at any time had any fears about), he was perfectly ſure, that there were no perſons in that Houſe, or out of it, who would be more ready to ſhew their attachment to the intereſts of the country, or to give their ſupport in ſtrengthening the hands of his Majeſty's miniſters as much as poſſible, to enable them to make exertions for its internal defence, than they would, however much they might reprobate the conduct which had brought the country into ſo perilous a ſituation. The Noble Viſcount's inſinuation, therefore, was extremely unfair, unbecoming, and unwarrantable; and as it was not provoked, had all the appearance of a wilful miſconſtruction of the conduct of thoſe who would perſevere in oppoſing the war, as unjuſt, unneceſſary, and dangerous to the deareſt intereſts of the country.

The Earl of Lauderdale profeſſed to be not a little ſurpriſed at the conduct of the Noble Viſcount, with whom it ſeemed that the declaration that the war was juſt and neceſſary, was ſo extremely great a favourite, that the Noble Viſcount's vote would even have been loſt to his Noble Friend the Secretary of State, if thoſe words had not been inſerted in the Addreſs. Perhaps, as the words did not appear in the Meſſage, which had been brought down the preceding day, but did appear in the Addreſs, they were put into the latter merely to pleaſe the Noble Viſcount's palate. With regard to the Noble Viſcount's inſinuation, that becauſe a few, as he had been pleaſed to term them, oppoſed the war in that Houſe, and were determined to perſevere in oppoſing it, they would not give their ſupport to any one meaſure, however from its nature right and neceſſary; was that the Noble Viſcount's idea of the ſpirit and character of Oppoſition, and had he governed himſelf in that way, when he (Lord Lauderdale) had the honour ſome years ſince to act with

with him in another place, where the Noble Viſcount had been one of the moſt eager members of an oppoſition, as powerful, as zealous, and which was actuated by as much party ſpirit, as any oppoſition that ever exiſted?

Lord Sydney roſe again, not, he ſaid, in conſequence of what had fallen from the Noble Earl who had juſt ſat down, but to take notice of a particular obſervation, that had fallen from the Noble Earl on the ſame bench with himſelf (Lord Derby). He begged leave to aſſure that Noble Earl, that he was juſt as capable of a wilful miſ-ſtatement of any Noble Lord's ſpeech as the Noble Earl was himſelf, and no more. With regard to what the Noble Earl, who began the debate, had ſaid of former oppoſitions, in the whole courſe of his Parliamentary experience, and his Parliamentary life had been a pretty long one, he did not recollect a ſingle inſtance, of a few Lords objecting to particular words in an Addreſs in anſwer to a Meſſage from the Crown.

Lord Grenville roſe to aſſure the Houſe, that he had come prepared to have ſtated his ſentiments on the ſubject that had been expected to have been brought forward that day, and whenever the Noble Earl would bring forward the motion of which he had given notice, he would find him ready to meet him, as he would then contend what he would now aſſert, that the meaſure which had been adopted for raiſing an additional internal force was warranted and ſupported by law, by precedent, and by authority, as well as ſound policy and expediency; and was, moreover, perfectly conſtitutional. With regard to the words "juſt and neceſſary war," he was ready to repeat his former aſſertions, and ſhould be extremely ſorry ever to concede or compromiſe matters ſo far with thoſe who had oppoſed the meaſures of Government, and the whole conduct of the war, as to obtain their unanimity upon any proper and neceſſary ſtep, by ſuch a ſacrifice to their opinions, as relinquiſhing thoſe which he had and would continue to hold on the expediency, the juſtice, and the neceſſity of the war. As to the difference of circumſtances between laſt year and this time, he was particularly proud and happy to reflect upon what had happened, upon the very ſame grounds that the Noble Earl had contraſted them. At that time he had ſaid, that a ſmall number of Britiſh troops, under the command of a Britiſh Prince, had the effect, under theſe circumſtances, not only to ſave Holland, but materially to repel the progreſs of the enemy; the fact was undeniable. Even if the occaſion ſuited, it would be unneceſſary to enter at large on the juſtice and neceſſity of the war; that had long ſince been admitted by all, excepting only a ſmall minority in that

Houſe. And why ſhould the Houſe, for the ſake of an unanimity which could not be expected from a certain quarter, be afraid to avow, in the face of Europe, the juſtice of the war? What were the Houſe called upon to do by the Addreſs? Not to decide on the juſtice or neceſſity of the war, but to aſſure his Majeſty of its concurrence in thoſe meaſures which were neceſſary for our own defence, and to render the war ſucceſsful and vigorous.

The Earl of Guildford (who had recently entered the Houſe) agreed perfectly with his Noble Friends in what they had ſaid reſpecting the right which every Noble Lord had to object to the words of the Addreſs, however willing they might be to agree to the general purport of it. He ſaid, he did not mean to detain the Houſe, but could not help thinking it a little hard, that when his Noble Friends were diſpoſed to ſupport the motion, they ſhould be told that unanimity was not deſirable, and that their ſupport was not wanted. It was, the Earl ſaid, rather a ſingular moment to be told ſo, when ſuch was the preſſure of the war, that an invaſion of the kingdom was profeſſed to be expected by his Majeſty's miniſters, which ſurely might fairly be conſidered as no weak proof that the war was not pregnant with the moſt favourable conſequences. Since he had been in the habits of differing from thoſe who were in his Majeſty's councils, he had given proofs of a readineſs to ſupport the meaſures of Government, when he could do it with conſiſtency and with honour: He would only mention two, the firſt Dutch war, and the armament againſt Spain; but that was no reaſon why he ſhould agree to words in an Addreſs, which were directly the reverſe of his conſcientious opinion on the preſent war, although, as far as regarded the ſafety of this country from any attack, or invaſion, no man would be more active in ſupport of its defence. He a ſecond time adverted to the arguments of the Noble Secretary of State, who gloried ſo much in the difference between the ſituation of the country laſt year and at preſent. Laſt year it was ſaid to be in ten times more danger, and his Majeſty's miniſters had taken no ſtep whatever for its defence; now, that the difference was ſo great and advantageous as to give the Noble Lord ſo much ground for exultation and triumph, they were forced to come to Parliament, and appeal to the country for aſſiſtance, on account of the dangers to be apprehended from the threatened attack of the enemy.

The Marquis Townſhend ſaid, he ſaw no reaſon whatever to object to the particular words complained of; he, therefore, muſt inſiſt on the juſtice and neceſſity of the war. In fact, the war was not only juſt and neceſſary, but unprovoked and unavoid-

unavoidable. Great Britain had ſtood by without interfering, till the blood-thirſty rulers of France made their memorable declaration, ſo hoſtile and ſo alarming to all other nations. When they told us we ſhould have neither a King nor a Conſtitution, it would have been highly blameable in miniſters to have remained inactive. Self-defence forced us into the war. With regard to the meſſage, and the call upon Parliament to provide for the internal defence of the kingdom, it was a proper meaſure. There were, to his knowledge, various populous counties, who only wiſhed to be called upon, who were eager to offer their ſervices. He lived himſelf, the Marquis ſaid, in one of the moſt populous manufacturing counties (Norfolk) in the kingdom, and ſuch was the caſe there. [Cry of *Hear! Hear! Hear!*] The Marquis ſaid, he knew what was alluded to, but was not afraid to ſtate it. A miſunderſtanding had at one time prevailed, and it was imagined all the preſſure of the war was to fall ſolely on the poorer ſort, and not on the rich, the gentry, and the higher ranks; but that miſconception had been cleared up, and the caſe ſtood exactly as he had ſtated it. He could therefore maintain, that, as far as he was acquainted with the ſentiments of the country, the people were anxious, and only waited the ſanction of Parliament, to riſe in its defence. There could not be one reaſon urged againſt it, for how could we keep a great ſtrength at home without weakening our force abroad, which he hoped would not be the caſe, for that, if he might be allowed to put an inſtance in his own profeſſional line, would be like keeping a great force within a garriſon that was to be attacked, and leaving the outworks, by which alone an attack muſt be attempted, entirely defenceleſs and unprotected.

The Earl of Lauderdale roſe once more to obſerve, that it was a curious proof that the ſituation of the country was better at preſent than it was before the war began, when before the commencement of it miniſters had aſſerted, that the mere ſending of 2000 troops to Holland, and thoſe meaſures in the execution of which a Noble Lord then preſent (Lord Auckland) had ſo large a ſhare, would ſoon put an end to the war. And he had not forgotten the prediction of that Noble Lord laſt year, reſpecting the then rulers of France. The Earl ſaid, he did expect to have ſeen upon the table, among the reſt preſented, certain other papers which had been ſent to County Meetings to be canvaſſed there, before they were ſubmitted to Parliament.

Lord Grenville ſaid, he was ready to meet the Noble Earl on the aſſertion that he had ſo particularly adverted to, *viz.* that we were at this moment in a better ſituation than in all human

probability we ſhould have been in had not the war commenced; and ſo far was he from thinking with the Noble Earl, that he was convinced, that if he were to ſelect a point of time more peculiarly favourable to his argument, in order to eſtabliſh the proof in queſtion, than any other, it would be preciſely that which the Noble Earl had fixed on. By ſending the troops to Holland, as we did, we had reſcued the United States from the danger that threatened, and, with regard to the predictions of his Noble Friend near him, let the Houſe decide for themſelves how far thoſe predictions had been verified. His Noble Friend, ſpeaking of the atrocious conduct of thoſe who governed France at the time that the French army over-run Flanders, had ſaid, the divine vengeance had overtaken ſome of the wretches who were the authors of all the calamities to which he alluded, and that he had no doubt but that it would overtake many more. How far this had been verified let every man form his own judgment. His Lordſhip juſtified the conduct of his Majeſty's miniſters reſpecting the King's meſſage, and ſaid, that undoubtedly plans had been in preparation for the internal defence of the kingdom, and that thoſe plans had been ſubmitted to the conſideration of the perſons who were deſigned to be entruſted with their execution. So far he admitted, and would be ready to diſcuſs and defend the conduct of his Majeſty's miniſters in this reſpect.

The Lord Chancellor then put the queſtion upon the Addreſs, which paſſed, as he ſaid, *nem. con.*

Earl Stanhope ſaid, "No, my Lord: I ſaid *not content.*" The Earl, therefore, was the ſingle *not content.*

CRIMINAL LAWS OF SCOTLAND.

Lord Lauderdale reminded the Houſe, that early in the ſeſſion he had given notice of his intention to call upon their Lordſhips to take the Criminal Laws of Scotland into their conſideration. The reaſon why he had not done it before this time was, that an Hon. Friend of his (Mr. Adam) having taken up that buſineſs in another place, he thought it incumbent on him to wait the event of that application, hoping that the ſubject would have come before the Houſe in a legiſlative form, which would, in his judgment, have been preferable to any motion of an individual. The Learned Lord on the Woolſack, the Houſe would recollect, had, on a former occaſion, ſtated, that although no petition had been preſented to his Majeſty by the parties convicted before the Court of Juſticiary in Scotland, yet that his Majeſty's miniſters had referred to the Judges on the ſubject, and that a paper was in exiſtence, which contained the return and report of the Judges of

of the Juſticiary Court. He underſtood, that Mr. Palmer had ſince petitioned his Majeſty for mercy or juſtice, he would not enter into the diſtinction; that petition, therefore, had neceſſarily been referred to the Scotch Judges, and they of courſe, he preſumed, had tranſmitted their report upon it: He meant, therefore, to move for their Lordſhips to be ſummoned on Tueſday the 8th of April, and he wiſhed to have the report of the Scotch Judges on the Table.

The Lord Chancellor left the Woolſack, and ſaid, that on a former occaſion, when he had troubled their Lordſhips ſomewhat at large on the ſubject, what had fallen from him muſt be within recollection. If it did not dwell on the Noble Earl's own mind, it would, he flattered himſelf, dwell on the minds of their Lordſhips. that he had ſaid, there was a paper on the ſubject in exiſtence, and he had lamented that it was ſo circumſtanced that it was utterly impoſſible to lay it on the Table. The fact was, it was a paper of a Scotch Judge, with his opinion of the merits of the trial, but ſuch a paper as could not be produced. With regard to a petition having been preſented to his Majeſty, he had never heard of any. If a petition of the ſort alluded to had been preſented, he, at leaſt, had never ſeen it. He would, however, make it his buſineſs to obtain proper information reſpecting the matter between that and the long day that the Noble Earl had named.

The Earl of Lauderdale ſaid, he was very unfortunate to be ſo miſtaken, if he really were in error. He conceived he had heard the Noble and Learned Lord ſtate the circumſtance diſtinctly as he had mentioned it. But he deemed himſelf ſtill more unfortunate to be miſtaken in the fact, and to hear that no petition had been preſented. As the Noble and Learned Lord, however, had ſaid, he would be ſo good as to obtain proper information, and communicate it to him or the Houſe, he muſt wait for that information, as he certainly could not move for a paper, which was ſtated from ſo high an authority to be not fit to be laid on the Table.—Adjourned at ſix in the evening.

HOUSE OF COMMONS.

WEDNESDAY, *March* 26.

The Wooferton, Ludlow, and Clere-hill Road Bills, were read the third time, and paſſed.

The Greenland Fiſhery Bill was read a ſecond time, and ordered to be committed.

Leave was given for a Bill for Stamping Bills of Exchange.

Several

Several East India Accounts were preſented preparatory to opening the India Budget.—To be printed.

LOTTERY.

The Chancellor of the Exchequer gave notice, that on Friday, in the Committee of Ways and Means, he would propoſe the terms of the enſuing Lottery.

WEST-INDIA ISLANDS.

Mr. Ryder ſtated, that, in conſequence of a famine with which the Britiſh Weſt-India iſlands were threatened, it had become requiſite to permit the importation of proviſions, and certain goods, in foreign bottoms; therefore he moved for leave to bring in a Bill of Indemnity to protect them for having done ſo.

The Motion was agreed to, and the Bill ordered to be brought in accordingly.

ROMAN CATHOLIC BILL.

The Solicitor General moved, in a Committee of the whole Houſe, a reſolution for leave to bring in a Bill to explain and amend the 31ſt of the preſent King, as far as it relates to perſons therein deſcribed profeſſing the Popiſh religion, and who are deſirous of being admitted, and practiſing as Attornies and Solicitors.

The Propoſal was agreed to; the Report was received, and leave given to prepare and bring in a Bill accordingly.

COMMITTEE OF WAYS AND MEANS.

The Houſe went into a Committee of Ways and Means (Mr. Hobart in the Chair).

Two Reſolutions for the raiſing the ſum of Three Millions and a Half on Exchequer Bills were put and carried, and the Report of the Committee was ordered to be received the 27th.

ALIEN BILL.

On the queſtion for the third reading of this Bill,

Mr. Fox ſaid, he did not mean to trouble the Houſe much at length, or to enter into any argument likely to create a long debate on the ſubject; but the opinion he entertained on this Bill, when originally brought in, had not been changed; on the contrary it had been ſtrengthened and confirmed; and that opinion was, that the Bill was in a conſiderable degree unjuſt. He ſhould, on that account, object to the renewal of ſuch a Bill, even if it came forward at this time with all the circumſtances on which it had been thought proper to paſs it laſt year; but that was not the caſe, and the former reaſoning on the ſubject would not apply to it at preſent. We were at war with

with France at this time, which was not the caſe when the Bill paſſed. This, in his opinion, made a material alteration in the queſtion of right in the Crown to order an Alien to depart; for although he entertained ſome doubt whether the King could legally order any foreigner to depart who was not the ſubject of a power at war with this country, yet he was willing to admit, that the King had by prerogative a right to order any enemy to depart this realm. The Bill was not confined to ſending away Alien enemies only, it gave the power of ſending away any Alien whatever; and many perſons of that general deſcription were ſubjects of the powers with whom his Majeſty was in alliance. The Bill was brought in originally as a matter of expedience againſt all foreigners, before we went to war, and before the alliances to which he alluded had been formed; but now the war was ſuch as to make, by theſe alliances at leaſt, a conſiderable alteration. In former wars we had contented ourſelves with ſending out of the kingdom foreigners only who owed allegiance to the power with which we were at war; but by this Bill we included thoſe who owed allegiance to the powers with whom we were allied. He wanted to know how, and upon what ground or principle it was that, on this occaſion, it became neceſſary to give the King further power in this reſpect than in any former war?

The Chancellor of the Exchequer begged leave to remind Gentlemen, that the object of the Bill was not ſimply and merely to empower his Majeſty to ſend Aliens out of the kingdom, but alſo to aſcertain the rules, according to which they were to be permitted to remain among us, and chiefly, as a meaſure of precaution, to prevent danger to the State. He thought that many perſons might remain who were French, and it might be both humane and politic in us to keep them, on account of the violent factions by which their country was rent; there were others who were not French, whom it would be politic to ſend away, in order to protect ourſelves againſt the machinations of the emiſſaries of the preſent government of that country; being at war with France, and circumſtances ſtanding as they did, he ſaw no objection to the renewal of the Bill.

The Bill was read a third time, and paſſed.

SLAVE TRADE.

Sir William Dolben moved for leave to bring in a Bill, to alter and amend different Acts of Parliament, relative to the regulation of the mode of conveying negroes in Britiſh ſhips, from the coaſt to the Britiſh plantations, &c. This motion, on the ſuggeſtion of the Speaker on the point of form, was changed

war, that the intereſts of the country might ſuffer as little as poſſible. The Chancellor of the Exchequer would, Mr. Fox ſaid, be leſs fond of introducing the juſtice and neceſſity of the war upon all occaſions, were the minority not ſo few. When the country was ſuppoſed to be in danger, was it juſt or honeſt to prevent the minority, however ſmall, from expreſſing their loyalty and zeal, by the introduction of topics that muſt create differences of opinion? From what had been ſaid, he felt himſelf bound, in defence of that conſiſtency which the Chancellor of the Exchequer had thought proper to impeach, to move, by way of amendment, "that the words *juſt and neceſſary*" be omitted in the Addreſs. On the illegality of adviſing his Majeſty to ſolicit voluntary ſubſcriptions, he ſhould obſerve only at preſent, that the Right Hon. Gentleman's triumph would be rather more honourable to him, if reſerved till the day of diſcuſſion; and that if any alluſion was meant to former opinions, ſuppoſed to have been held by him upon the ſubject, he could aſſure the Right Hon. Gentleman, that neither in 1778, nor in 1782, had he maintained the propriety of giving ſuch advice.

Mr. Drake thought that much of the Chancellor of the Exchequer's ſpeech might have been very properly omitted. He complimented Mr. Fox on the candour with which he had profeſſed his willingneſs to agree to the Addreſs, although words had been introduced into it, of which he could not be ſuppoſed to approve. He ſtrongly recommended unanimity upon a ſubject where, in fact, there was no real diverſity of opinion; for, were an invaſion to take place, he made no doubt, but as a true-hearted Engliſhman, Mr. Fox would be one of the foremoſt in the ranks of thoſe who ſhould oppoſe them. He had previouſly rejoiced, he ſaid, in the temper, the harmony, the concurrence, the good humour, the unanimity, the cordiality, and the complacence of the Houſe. Every thing was going on moſt *pleaſantly* and moſt *officially*. He truſted, that whatever difference might exiſt relative to the expediency of the war at its commencement, there was not an honeſt Engliſhman in the country who did not reprobate the politics of France. It was impoſſible to expreſs this abhorrence in ſtronger language than that uſed by Mr. Grey, who had declared the preſent Government of France to be ſo cruel, unjuſt, and tyrannical, that he would rather live under the rule of Nero or Caligula. He therefore hoped that Gentlemen would act conſiſtently with theſe declarations, and not be induced by reſentment of particular words, or the peeviſhneſs of oppoſition, to perſiſt; he hoped particularly that the Right Hon. Gentleman, with his

his uſual magnanimity, would conſent to withdraw an amendment, which, without the intervention of certain impreſſions, he had declared he was not diſpoſed to have made.

Mr. Secretary Dundas wiſhed the reſpectable Member to recollect, that the irritating language to which he alluded was not unneceſſarily uſed, and might indeed have been ſpared, if the debate had ended with the ſpeech of the Right Hon. Gentleman who moved the amendment. But afterwards, when another Hon. Gentleman (Mr. Sheridan) made it a condition of his vote that miniſters ſhould plead guilty to all the charges which he thought proper to bring againſt them, that they ſhould admit the war to be neither juſt nor neceſſary, and ſuffer the impreſſion to go forth, that they intended to abandon the ſubſcription propoſed to the Lords Lieutenants of counties, his Right Hon. Friend's explanation became neceſſary; and however deſirous miniſters might be of unanimity, the vote of the Hon. Gentleman, to whom he had juſt alluded, *upon theſe terms* they muſt always repudiate.

Mr. Drake ſaid, that both the Hon. Gentlemen who oppoſed the war, in ſtating that they adhered to their former opinions, had very dexterouſly avoided ſaying any thing to occaſion a debate on the Addreſs, till the Chancellor of the Exchequer provoked it.

Mr. Sheridan expreſſed his aſtoniſhment that what he ſaid before could have been ſo palpably miſrepreſented. He had ſaid that he would not oppoſe the Addreſs, although he diſapproved of calling the war juſt and neceſſary. He had alſo ſaid, that if miniſters would declare that they had given up their plan of ſoliciting ſubſcriptions, he would give up the motion which he intended to make upon the ſubject. Surely there was no connexion between making or not making that motion, and voting for the Addreſs. After what he had heard, he ſhould think it his duty to make the motion when the papers were printed; and as far as argument and authority could be relied upon, he ſhould prove that the meaſure was a miſdemeanour on the part of miniſters, and on the part of all who aſſiſted them in it.

Mr. Secretary Dundas ſaid, he had ſo underſtood Mr. Sheridan before, and ſtill thought that what he ſaid called for the animadverſion made by his Right Hon. Friend.

Mr. Grey ſaid, it was in vain to enter into explanation, when a diſtinction ſo clear was overlooked; it had not been his intention to have troubled the Houſe on the preſent converſation, for he could not call it a regular debate. He was not ſurpriſed that the Right Hon. Secretary of State ſhould feel it neceſſary to ſay ſomething in defence of the Chancellor

Sir Richard Hill preſſed Mr. Fox to withdraw his amendment, urging the deſirableneſs of unanimity as the ground of his argument.

Mr. Francis ſaid, that, ſince he had ſat in that Houſe, he had never been witneſs to a more uſeleſs waſte of words than had been made on the preſent occaſion: That it ſeemed to him to require little leſs than the genius of confuſion to confound two objects ſo perfectly diſtinct as thoſe which were before the Houſe; the one immediately under conſideration, the other to follow it on ſome ſubſequent day. The firſt queſtion to be decided was, Whether they ſhould vote an Addreſs of Thanks to the King, to aſſure his Majeſty of their determination to ſupport him in every meaſure neceſſary to the defence of this kingdom? "To that (ſaid Mr. Francis) I agree, and as heartily as any man, even among thoſe who are moſt loud and vehement in their profeſſions, and ſome of whom, if they contributed at all, would not do it out of their own property, as I muſt do it out of mine. But, in agreeing, as I do, to the ſubſtance of the Addreſs, let me not be compelled, in the ſame breath, to contradict myſelf, and to declare that the war is *juſt and neceſſary*, which I have repeatedly declared to have been neither juſt nor neceſſary. What occaſion have you to force us into that uſeleſs contradiction? The queſtion of the juſtice or neceſſity of the war is not in iſſue *now*. All the uſeful purpoſes of the Addreſs will be anſwered by ſimply ſaying *the preſent war*, without any qualification one way or the other. The ſecond queſtion is, Whether, without reference to the quality of the war, it be legal and conſtitutional for the executive power, by its miniſters, to ſolicit and receive pecuniary contributions from the ſubject, for the purpoſe of levying and maintaining an armed force, or for any other public purpoſe, without the grant of Parliament? To that queſtion I ſay, No; and I ſhall reſiſt the meaſure to the utmoſt of my power. Is there any inconſiſtency or contradiction in my conduct on thoſe diſtinct queſtions? On one ſide I am willing to aſſure his Majeſty of the ſupport of this Houſe in a Parliamentary way; that is, by Parliamentary grants and ſupplies. On the other, I ſay, I will not conſent to ſupport the war by applications directly from the Crown to the ſubject, becauſe I deem it illegal and dangerous to the liberty of the country, which I wiſh to defend, but which is only worth defending in proportion as it is free. The Right Hon. Gentleman has now favoured us with a definition, which he thinks legalizes the meaſure, namely, that the application of the money contributed *ſhall have the ſanction of Parliament*. That condition, added now, will not legalize what has been already done,

done, or attempted to be done, without it. But this is evidently an after-thought of the miniſter. If the condition, now ſtated, be neceſſary to legalize the meaſure, why was it not ſo expreſſed in the Letter of Requiſition from the Secretary of State to the Lords Lieutenants? In that letter, you will not find a ſingle word about *the ſanction of Parliament.*

"But, Sir, I ſhould be glad to know whether the Right Hon. Gentleman means, in applying for contributions, to uſe the ſame language to the country which he does to this Houſe? Does he intend to aſk every man, in the firſt inſtance, whether he thinks the war *juſt and neceſſary*; and, unleſs he thinks ſo, not to accept of his aſſiſtance in ſupport of it? or does he expect that they, who think the war originally unjuſt and unneceſſary, will ſupport it by extraordinary contributions? Why ſhould he urge theſe uſeleſs, contentious queſtions any where? The indiſpenſable neceſſity of defending the kingdom is argument enough to engage every man to concur in the Addreſs. On this day, the miniſter may command unanimity if he will. He forces us to diſſent, when in fact we wiſh to agree with him."

Mr. M. Robinſon declared, that he thought the war juſt and neceſſary.

Mr. Buxton was in hopes the motion for the amendment would be withdrawn. He obſerved, that the war, however neceſſary he muſt admit it to be, was at the ſame time highly burdenſome to the people; and he muſt approve of any plan which tended to impoſe ſuch part of the expence upon the rich as would be likely to make the remainder more eaſy to the people. He reſpected as much as any man the privileges of the Houſe, the privileges of Parliament; but when Parliament was calling upon his conſtituents for ſupplies, he was ſorry to ſee it retain one privilege in particular, which, if aboliſhed, would, he was perſuaded, prove highly beneficial to the revenue—he meant the privilege of *franking*. This had frequently occurred to him; and if it met the approbation of the Houſe, he would on a future day make a motion on the ſubject.

Mr. Martin ſaid, he had often wiſhed for ſuch a Bill; he declared himſelf a friend to every uſeful and neceſſary privilege of the Houſe, but would cheerfully ſupport any motion for aboliſhing the privilege of *franking*. If the privilege were uſed only for public purpoſes, he ſhould be for maintaining it as neceſſary for the general benefit and advantage of the people at large, but he would ſupport ſuch a Bill the more readily, as he knew, or rather it was generally ſuſpected, that

ſome Members abuſed that privilege in a very unparliamentary and ungentlemanly manner.

Mr. Martin was called to order; but he deſired that his words might be taken down, if he had ſaid any thing improper; in order that he might be correctly underſtood, he repeated his expreſſions *verbatim*.

Mr. M. A. Taylor ſaid, that he did not mean to have ſaid any thing on the preſent ſubject, if it had not been for what fell from the Hon. Member who ſpoke laſt but one. He doubted whether the abolition of the privilege of franking would much increaſe the revenue. There was a ſource of revenue, however, which, if the war ſhould continue, he ſhould move to take into conſideration; the ſource he alluded to was the abolition of ſinecure places, and the reduction of the ſalaries and emoluments of thoſe places, from which Gentlemen drew great incomes, without doing much, if any thing, for them. This abolition, beſides increaſing the revenue, would alſo have the good effect of diminiſhing what was juſtly called ſecret influence; but which he in bolder language muſt denominate corruption. He lamented that any words had been inſerted in the Addreſs to prevent unanimity; but after what had been ſaid, he felt himſelf obliged to vote for the amendment.

Mr. Iſaac Hawkins Browne defended the words objected to in the Addreſs, as highly neceſſary, and juſtified the language held by the Chancellor of the Exchequer upon them.

The amendment was negatived without a diviſion; and the Addreſs voted as originally moved.

VOLUNTEER CORPS.

The Chancellor of the Exchequer moved for leave to bring in a Bill for regulating ſuch Corps as may voluntarily embody themſelves for the defence of their reſpective Towns or Counties. This Bill, he ſaid, was a tranſcript of that which took place in 1782.

Mr. Sheridan obſerved, that in that Bill thoſe corps were only ſubject to military diſcipline on being called forth, either in caſe of actual invaſion or inſurrection: He wiſhed to know if this Bill was intended to contain the ſame proviſions.

The Chancellor of the Exchequer replied, that the conditions of enrolment would be ſent to the officers entitled to receive ſuch volunteers, and that they would be further explained in the proviſions of the Bill.—Leave was given.

Mr.

Mr. Sheridan gave notice that he ſhould bring forward the motion which he had read in the courſe of the debate, on Friday the 28th.

Adjourned.

HOUSE OF LORDS.

THURSDAY, *March* 27.

Heard Counſel in continuation on the Appeal in the caſe of Aglianby *v.* Maxwell.—Adjourned.

HOUSE OF COMMONS.

THURSDAY, *March* 27.

The Chancellor of the Exchequer brought up a Bill for the Encouragement and Diſcipline of ſuch Men as ſhall voluntarily enrol themſelves for the ſervice of the State upon an Emergency; which was read a firſt time.

The Chancellor of the Exchequer ſaid, it would be proper that the Bill ſhould be printed, in order that Gentlemen might the better be able to ſee the tenour of it. He did not apprehend it could require much diſcuſſion, for, in the greater part, it was only a tranſcript of a Bill which paſſed in 1782: It differed, however, in one particular from the Bill in 1782. By that Bill the Volunteer Corps were only to be ſubject to military diſcipline if they marched under arms in caſe of invaſion or actual rebellion. By the preſent Bill it was provided, that thoſe who ſhould enliſt into this corps, ſhould not be bound to wait for invaſion, or actual rebellion, but might be called out on the appearance of invaſion, or by the Lord Lieutenant of the county, or the Sheriff, to quell any inſurrection or diſturbance in their own county or the adjacent one, in which caſe they would be ſubject to military diſcipline. He propoſed that the Bill ſhould be read a ſecond time, and committed for Monday the 31ſt. It was ordered to be read a ſecond time, and printed.

The Houſe, in a Committee of the whole Houſe, paſſed a Reſolution for leave to bring in a Bill to indemnify Governors and Lieutenant Governors of the Weſt India Iſlands who had permitted the Importation and Exportation of Goods in Foreign Bottoms.

The Report of the Committee on Ways and Means was read, and Bills were ordered to be brought in in purſuance of the Reſolutions.

Adjourned.

HOUSE

HOUSE OF LORDS.

FRIDAY, *March* 28.

The Royal Aſſent was given by Commiſſion to thirty-two public and private Bills.

VOLUNTARY SUBSCRIPTIONS.

The Earl of Lauderdale roſe, and ſaid he was too apt to intrude on their Lordſhips, and occupy their time; no man was more conſcious of it than he was, but he defied any Noble Lord to accuſe him, nor could he accuſe himſelf of doing ſo, unneceſſarily. He had that day to ſubmit to their Lordſhips' conſideration, a few obſervations on a ſubject, as important, in his mind, as ever arreſted the attention of Parliament. The ſubject of the motion he meant to bring forward deeply imported the conſtitution of the country. He lamented, therefore, that it had not fallen into hands as able as the other important motions of the Seſſions had fallen into. There were two points which he would particularly contend were illegal and highly unconſtitutional, and on which their Lordſhips always manifeſted, when called upon, the utmoſt jealouſy. The *firſt* was, the augmentation of his Majeſty's forces, and the levying of money for the uſe of the executive government, without the previous conſent of Parliament. With regard to the one and the other, their real importance muſt be obvious to their Lordſhips. In all the various regulations for augmenting his Majeſty's forces, and landing foreign troops in this kingdom, our anceſtors, his Lordſhip remarked, had been at all times extremely jealous; nor was either ever ſuffered without the previous conſent of Parliament.

The preſent extraordinary attempt to extend the power of the Crown, was ſuch as called for the reprobation of every man who valued the conſtitution, and loved the liberties of his country. Money without the conſent of Parliament, was a novelty that could not be borne out by precedent. The Circular Letter to the Lords Lieutenants of the different counties, was a meaſure anomalous in itſelf, and apparently intended to keep up that alarm in the country, which was ſo favourable to the views of Adminiſtration. It ſeemed to be a determined ſyſtem, that whoever ſpoke the language of liberty, however much they were the known and avowed friends of the conſtitution, were to be accuſed of maintaining French principles; it was faſhionable to beſtow the moſt flattering approbation and praiſe upon all who ſpoke highly of prerogative, and even gave to it a greater extent than was claimed before, while thoſe who were true friends of the conſtitution, and endeavoured to preſerve it from innovation or decay, were ſtigmatized in the ſame degree.

gree. His Lordſhip obſerved, that the Houſe ſhould take into its contemplation, the anarchy that prevailed in a neighbouring country: He intreated the Houſe to reflect, that France, for her own internal protection, had raiſed troops in a ſimilar manner to that recommended in the Circular Letters to the Lords Lieutenants of the various counties; and what, he aſked, was the conſequence? That they were now obliged to have recourſe to troops of the third requiſition. This he truſted was not an ominous circumſtance; but, at all events, it was a matter that ought to make ſome impreſſion on their Lordſhips. He conceived, that, by raiſing troops in this unconſtitutional manner, the Parliament was deprived of an invaluable privilege. How then would the Right Honourable Chancellor of the Exchequer reconcile the meaſure to his conſcience? He had heard *that* Gentleman, and many Noble Lords had heard him alſo, harangue on the bleſſings of our excellent conſtitution. He who lately reſiſted even a ſpirit of amelioration, who would not riſk any alteration, even for the purpoſe of that reformation which he ſo zealouſly and warmly recommended, by this late meaſure, would run the riſque of endangering the whole of the conſtitution.

His Lordſhip declared himſelf at a loſs to imagine what could have induced miniſters not to have conſulted Parliament before they had recourſe to a meaſure thus illegal and unconſtitutional. Was the exigency ſo great, or was the Parliament ſo conſtituted that it could not be truſted? Muſt it relinquiſh its power, he aſked, and reſign it to the will of an individual, without the approbation of the people, taken through the medium of their repreſentatives? If the plan was even legalized, it was yet objectionable as crude and indigeſted; there was no one uniformity of ſentiment that could even approach perfection. The various plans exhibited no one regular ſyſtem of defence. A ſyſtem of defence adopted according to the caprice of each individual, muſt riſk the uniformity of the whole, and could never be of the leaſt advantage to the internal defence of the kingdom. When he and his friends had propoſed a reformation in Parliament, ſuch as originated with Mr. Pitt and the Duke of Richmond at the Thatched Houſe, they were vilified as Jacobins and Levellers; but they could now retort that language, and ſay, that the heterogeneous plans propoſed by his Majeſty's miniſters, appeared as if they had originated with Danton and his aſſociates, for they were novel in their nature, dangerous in their conſequences, and inadequate to any one good purpoſe; they partook of all that confuſion which had diſtinguiſhed the proceedings of the requiſitions of France. By this meaſure, miniſters, his Lordſhip ſaid, gave

the greateſt poſſible triumph to the enemies of the country, as it expoſed their weakneſs, and afforded the people an opportunity of manifeſting their oppoſition to the war, and demonſtrating the unpopularity of Adminiſtration, which had already been the conſequence in more inſtances than one. It were too much, he ſaid, in the ſame ſeſſion, to have to combat doctrines inimical in the extreme to the ſpirit of the conſtitution, ſuch as the raiſing money and forces, and landing foreign troops, without the previous conſent of Parliament. His Lordſhip obſerved, that, in the laſt century, Parliament, with reſpect to any meaſure at all ſimilar to the preſent, evinced extreme jealouſy, and ſhewed a ſtrong oppoſition to any encroachment on its privileges.

Having ſearched into hiſtory, there was nothing like the preſent meaſure to be found, except in the very worſt of times. The precedents, on the other hand, were many, that ſhewed the extreme jealouſy that Parliament had ever held on the two points, the levying of money, and the keeping up an armed force in the kingdom illegally, and without the conſent of Parliament. He then read the opinion of Lord Coke, and referred to the acts upon that head, from the time of Richard III. to the 12th of Charles II. ſtating the 1ſt of Richard III. the 10th of Henry VII. and others, to ſhew that attempts of that ſort had been frequently made by the Crown, and as often oppoſed by the people; and quoted the opinions of ſeveral learned judges on the illegality of the meaſures at preſent propoſed by the Letters to the Lord Lieutenants of the counties. The Act of Charles II. upon which he dwelt for ſome time, limited the ſubſcription of every Commoner to 200l. and every Peer to 400l. but it was not enforced till after the Act paſſed, ſince the time of the Revolution. He read ſome of Mr. Hargrave's notes on Lord Coke, all of which went directly againſt benevolences, and private aids of any deſcription, for public purpoſes, and at the diſpoſal of the executive government. He confirmed his arguments by the Bill of Rights, which expreſsly ſtated the illegality of ſuch meaſures.

He obſerved, that ſome Noble Lords were very eager in calling out *Hear him, hear him!* When that ſort of notice was taken of any thing ſaid, it was generally ſuppoſed that thoſe who did ſo, had it in their power to found ſome argument in reply to the perſon ſpeaking; but he could not imagine that any thing different from what he had inferred, and ſtated, could be made out from thoſe ſtatutes. So much did he ſee the illegality of the proceeding, that nothing which miniſters could do ſubſequently to legalize the meaſure, could make him think they were to be juſtified in what they had already done.

He

He inſiſted that this meaſure, and others lately attempted, tended to increaſe the influence of the Crown, and to diminiſh the privileges of Parliament and of the People; an influence which had already grown to ſuch extent, that it had been on a former occaſion thought neceſſary, by one of the greateſt lawyers of that time, and agreed to by the Houſe of Commons, to come to a reſolution, "that the influence of the Crown had increaſed, was increaſing, and ought to be diminiſhed;" and this doctrine was ſupported upon the reaſoning of one of the greateſt authorities he could mention, Judge Blackſtone. That this influence ſhould be ſo alarming at that time, was a ſerious conſideration for their Lordſhips' guidance on the preſent occaſion. War, and the preſent war in particular, tended to increaſe the influence of the Crown. The great patronage of the military and naval appointments, and the great number of places and commiſſions neceſſary only in time of war, added in no ſmall degree to that influence.

With regard to the communications between miniſters and the different counties, who was there that knew or could ſay there had been no private communications; that there were no inſtructions given to any Lord Lieutenants, to hold out to thoſe whom they wiſhed to ſubſcribe, that their ſervices would be remembered? And having families, connexions, and various views that might have effect, it could not be ſaid that this was an inconſiderable degree of influence. As to whatever anſwers came to theſe miniſterial communications, he would therefore ſay, that they did not contain the real and genuine ſentiments of the people, but proceeded from a ſyſtem of corruption, which, however true, dared not be avowed. Beſides, this power of reward exiſted in all times of war. In the preſent war it had been conſpicuouſly ſeen, that miniſters held an extraordinary power of puniſhment for all thoſe who diſapproved of their meaſures. Every one who ſpoke, wrote, or ſignified in any way his diſapprobation, was branded with the name of Jacobin, Rebel, Traitor, and every term of opprobrium that could be added. He was certainly juſtified in this remark, when it was notorious and avowed, that newſpapers were paid in a new and unuſual manner by Government, whoſe ſole purpoſe ſeemed to be to vilify, calumniate, and traduce thoſe who were in oppoſition to Adminiſtration; and ſome of them had gone the length of imprudently inſinuating, that there were men of character and conſequence in this country, in the pay of France, becauſe thoſe men had offered ſentiments which, in his idea at leaſt, were eſſentially neceſſary to the well-being and ſupport of the conſtitution. He ſaw with regret, upon many late occaſions, that great talents were uſed

in a very improper manner, in his mind, to defend meaſures haſtily and imprudently entered into, that could not, or would not, have been defended, had the ſame queſtions been agitated before the circumſtances to which they referred, took place.

The next point he would advert to, was that reſpecting the precedents. There were various ways of raiſing forces, but there were only four inſtances that he believed would be even mentioned that night. The firſt of theſe would be that of raiſing troops in the year 1746, when there was an actual rebellion in the country; the next was a ſubſcription ſet on foot by the city of London in 1759; and laſtly, thoſe of 1778 and 1782. He entered into a ſummary deſcription of the peculiar circumſtances of each of theſe precedents, and ſaid, that in all the caſes, there was this material difference from the preſent, the ſubſcriptions were ſet on foot voluntarily by the people themſelves, who ſolicited Government to accept their aſſiſtance, and not, as in the inſtance of 1794, applied for in the ſhape of an official ſuggeſtion of a Secretary of State, which was (and he muſt again and again repeat it) nothing leſs than levying money for the raiſing and maintaining an armed force in this country, without the conſent of, and unknown to Parliament. He ſtated this to be quite a new and unheard-of force in Great Britain, which theſe letters recommended; and begged leave to call their Lordſhips' attention to that only legal and conſtitutional force within the kingdom, which had been ſo often praiſed, and ſpoken of in the moſt reſpectable terms —the militia. This known, eſtabliſhed, and regular force cannot be called out, even in any emergency, without calling Parliament together in 14 days after; and yet, if the meaſure in queſtion is to be pronounced legal, this new ſort of force for internal defence may be called upon whenever it may ſuit the will or inclination of miniſters or the Secretary of State: A force ſo indefinite in its nature, that nobody knew a name for it; it was one thing in one county, and another in another.

At every different meeting, different opinions were ſtarted. In the county of Edinburgh, one Gentleman had come forward, and ſaid, it was their buſineſs to ſupport the government and conſtitution of the country, but not by raiſing ſoldiers: The navy had always been the defence of England, and therefore he propoſed that they ſhould ſubſcribe for building ſhips, or manning the navy. His Lordſhip ſaid, that it muſt be within the recollection of the Houſe, the enormous ſums which had been expended in the erecting of fortifications. Many perſons, equally enamoured of this mode of defence might ſay, that they would ſubſcribe towards fortifying the

the coaſt; that Parliament knew nothing about the buſineſs; and that they would reſerve to themſelves the expenditure of that money in ſuch manner as ſuited their own inclinations. It would ſeem that miniſters might accept or refuſe whatever ſort of ſubſcriptions they thought proper, and apply the money in whatever way they pleaſed; but in his opinion all plans were illegal that had not the conſent of Parliament. The whole ſubject was in itſelf extremely ſimple and plain, and the practice of the Houſe in all Money Bills was an illuſtration of it; whilſt from regard to the privileges of each Houſe of Parliament, neither branch of the Legiſlature was allowed to go beyond its proper and aſcertained limits. Was it therefore legal that the people ſhould do that individually, which their Repreſentatives in Parliament aſſembled as a branch of the Legiſlature could not do? It was worthy of obſervation, that the country was taught to believe, that we entered into the preſent war to protect our allies, and to reſtrain that ſpirit of innovation which we were told threatened the peace of Europe. But how was the caſe altered? How contrary were our exertions at preſent to what they were laſt year? We did not now levy forces for foreign ſervice. What then muſt our allies and Europe ſay, when they ſee that the country is engaged in encouraging and increaſing the militia for her own internal ſafety? The ſtate of the war was ſtrangely altered: Miniſters, inſtead of finding the conqueſt of France an eaſy taſk, were actually obliged to act on the defenſive; and France, which they pronounced had no navy, has at this time probably at ſea a great and formidable fleet. Whether the neceſſity for this aid proceeded from the real ſtate that the country was in, or the unſucceſsful attempts that we had made, he knew not; but this meaſure ſeemed to proceed moſtly from a wiſh that miniſters had to obtain from the people, by agreeing to this ſubſcription, ſuch an approbation of their meaſures as they could bring to Parliament as the opinion of the people at large; and in this graſp at popularity, by this raſh and unprecedented ſtep, they had entirely forgotten the conſtitution, and left it out of their ſight.

His Lordſhip next adverted to the reception with which their preſent plans had met in different parts of the kingdom. In Eſſex, depending upon their popularity, they conceived that the people would receive them with alacrity; but Engliſhmen are more enlightened than Adminiſtration imagine; they doubted the legality of the ſcheme, and treated it accordingly. In Oxfordſhire, where they might have looked for compliance, they experienced no better ſucceſs; the propoſition was there got rid of by an empty compliment of their confidence in the miniſter.

miniſter. At Warwick, the people evinced a proper knowledge of the conſtitution; and, inſtead of meeting the buſineſs with the expected alacrity, they declared that they would congregate, and with their lives and fortunes, in caſe of neceſſity, protect their country in ſuch a manner as the King, Lords, and Commons in Parliament aſſembled, ſhould approve.

Much had been ſaid laſt year, in both Houſes of Parliament, that there exiſted in the kingdom a number of *diſaffected* people; but miniſters had put the people now to the teſt; and the Secretary of State has proved, by his circular letters, that the people are every-where attached to the conſtitution; and for its ſupport, and that of the country, they are ready and willing to riſk their lives and fortunes. He obſerved, that the advertiſement calling together the people of Surry, held forth ſuch hints and inſinuations, that they could be conſidered as little ſhort of a menace to all who did not agree to the purpoſe of the meeting; ſince it deſired that all thoſe who wiſhed to ſhew their love and regard for the conſtitution and the country, ſhould aſſemble; implying, of courſe, that ſuch as did not, would be conſidered as marked men, not friendly to either. This was an unfair and uncandid artifice, he inſiſted, and by no means a fit method, to collect the free ſentiments of the people; but the reſolutions paſſed at that meeting, while they ſhewed the good ſenſe of the perſons aſſembled, and their real love for the conſtitution, gave no cauſe for triumph to his Majeſty's miniſters, who muſt perceive their boaſted popularity on the wane. His Lordſhip next adverted to the ſhire of Berwick, north the Tweed. There, he ſaid, the people were ſuppoſed to have the moſt alarming apprehenſions from what conſtitutes a *marked man*. The late proſecutions in that country made them, it was ſuppoſed, capable of any impreſſion. What, he aſked, was the proceeding there? He had ſeen a letter from the ſheriff of Berwickſhire, ſtating, that the freeholders came forward, and agreed that the county ſhould raiſe two troops of cavalry, to conſiſt of fifty men each, and that they were to be called upon for eight months ceſs for their ſupport. But the meeting thought they had no right to tax thoſe who were abſent; and towards carrying their reſolutions into effect, they lamented that an Act of Parliament was neceſſary to enforce the tax, and of courſe the ſcheme had fallen to the ground. A paper for ſubſcriptions, with the reſolution of the meeting, had been circulated, which was left at the houſes of the Noblemen and Gentlemen of the county. One of theſe, he ſaid, was left at his houſe. What, his Lordſhip aſked, muſt be the firſt impreſſion that he felt on its peruſal? Certainly, that if he did not ſubſcribe, he muſt become a

marked

marked man in the county, and meet the calumny of being conſidered as a man deſtitute of loyalty; a Jacobin, and a Leveller. Thus was any perſon liable to be branded with every opprobrium that malice could dictate, if he did not, to avert the ſtigma, conſent to ſacrifice the conſtitution. In ſhort, it was nothing but a *forced loan*; money extorted from the people by the riſk that all thoſe who refuſed it muſt run of being reproached with every calumny that malice could ſuggeſt. He recapitulated the magnitude of the queſtion, which involved two moſt important points: Firſt, the levying of money from the people; and next, the keeping an armed force in the country without the conſent and ſanction of Parliament. He adviſed miniſters to conſider that what they had done raſhly they ought to reviſe coolly, and not obſtinately refuſe that redreſs to the country which their own inattention and blunders called for. He adviſed them, if by that ſame obſtinacy they meant to carry on the war with the melancholy proſpect then before them, not to depend upon this as a ſuitable reſource or expedient for that purpoſe. They might, from an acquieſcence in this ſubſcription, derive ſome apparent popularity to their conduct: But let the fate of France be before their eyes; let them recollect that the patriotic gifts of that country, which they had eſteemed as a reſource for carrying on the war, ſoon produced a forced loan. He concluded with moving, "That "it is a dangerous and unconſtitutional meaſure, for the peo- "ple of this country to grant to the executive government "any private aid, benevolence, or ſubſcription, for public pur- "poſes, without the conſent of Parliament."

Lord Derby ſeconded the motion.

Lord Hawkeſbury ſet out with avowing, that to take money from the ſubject by the prerogative of the Crown, without the authority or the conſent of Parliament, was clearly illegal and unconſtitutional. After that general poſition, he muſt, he ſaid, beg leave to call the attention of their Lordſhips to the particular diſtinction between forced contributions and voluntary gifts of the ſubject. All the latter were legal and conſtitutional, whereas the former, being compulſory, are clearly otherwiſe. His Lordſhip entirely differed with the Noble Earl in opinion, with reſpect to the conduct which, on this occaſion, had been purſued by his Majeſty's miniſters; ſo much ſo, indeed, that he thought they had acted in a manner perfectly legal, conſtitutional, and exactly conformable to all precedents. For what had they done? They found the ſituation of the country was ſuch as to require ſome effectual exertions and ſupport from the people; in conſequence, ſeveral plans had ſuggeſted themſelves, and on theſe they had communicated

municated with the Lords Lieutenants of the counties; and who, or what ſet of men, could more naturally ſuggeſt themſelves as likely to know what would be the beſt or moſt probable mode to be approved of by the different parts of the kingdom? Theſe perſons had been applied to alſo to take the ſenſe of the Gentry, &c. of their various diſtricts. But then, it was ſaid, miniſters ſhould firſt have come to Parliament. With what? Could they come to that Houſe or the other with a plan, in order to adjuſt and mature which they were deſirous of advice from thoſe able to ſuggeſt what was practicable, and govern themſelves by ſuch advice to give it a form and ſhape fit for the reviſion and conſideration of Parliament, and by which advice they intended to regulate it? Nothing could be more abſurd. Every ſpecies of information that could be obtained had been collected, and miniſters evidently came forward to Parliament as ſoon as it was in their power. The intimation, however, which was in that letter, that general ſubſcriptions might be agreeable, had been deemed extortion, and compared to the ancient benevolences; nothing could be more oppoſite; when thoſe benevolences were levied, every man was forced to contribute, and impriſoned if he did not comply; whereas by this ſubſcription no compulſion whatſoever was held out, it was propoſed to be entirely voluntary, and every individual was left to uſe his pleaſure.

His Lordſhip conſidered the ſubject under three heads—the legality of the practice—whether it was conſtitutional or not—and the precedents. He ſtated and reaſoned upon the various ſtatutes that had paſſed on the ſubject from the firſt of Richard the Third down to the twelfth of Charles the Second. He defined the ſtatute of Richard the Third to be an act againſt benevolences, which had been extorted from the ſubject during the civil wars, occaſioned by the diſputes between the Houſes of York and Lancaſter, when various courts, inveſted with arbitrary powers, were inſtituted, and men were thrown into priſon to force them to contribute. Such benevolences, therefore, certainly he agreed, with the great legal characters that had been quoted, were illegal. But if the ſubject gave money without compulſion, he did not act againſt the ſpirit of the conſtitution; neither did it require the approbation of Parliament to legalize the meaſure. With reſpect to the precedent of the 12th of Charles II., he explained that the King did not come to the Throne till twelve years after he had a right to reign. On his acceſſion, he was in great want of money, and the Act was paſſed to meet the emergency, and furniſh a preſent ſupply as well for the public purpoſes of Government, as for the private convenience of the King. His

Lordſhip ſtated the particular powers which that ſtatute gave for enforcing the ſubſcription, by proceſs iſſued from the Exchequer. His Lordſhip referred to the Petition of Right, which was, he ſaid, drawn by Sir Edward Coke and Serjeant Glanville. Sir Edward Coke, who beſt knew what he meant, pleaded a cauſe at the bar of that Houſe upon it, and never urged ſuch an argument as had that day been contended by the Noble Earl to be a fair inference from the Petition of Right. The conſtitutional ground he maintained to be clear; when ſubſcriptions were compulſory they were unconſtitutional; and when voluntary they were conſtitutional. He read the words of the Petition of Right, and of Sir Edward Coke, on the ſubject. The queſtion of levying money by compulſion and authority, had been argued many times, but theſe were queſtions which did not by any means bear on the ſubject of debate.

His Lordſhip referred to the different precedents in 1745-6, 1759, 1778, and 1784. In 1759, the city of London came forward with a ſubſcription. The Earl of Chatham, then Secretary of State, made no objection, but in bright and animated language approved the meaſure; and the legality of the proceeding was never once queſtioned. The ſame expedient was reſorted to in 1778; and it muſt alſo be recollected that the precedent of 1782 came ſtill more cloſe as to the manner of proceeding. Lord Shelburne, at that time Secretary of State, ſent a circular letter on the ſubject to every mayor and magiſtrate of every corporation and large town in the kingdom (an extract from which his Lordſhip read). It ſtated, that the neglect or inattention of former adminiſtrations had left the kingdom in ſo defenceleſs a ſtate, and our enemies were ſo powerful, that ſome particular exertions were abſolutely neceſſary; it therefore recommended the taking opportunities to teach the people the uſe of arms, that they might be ready to give their aſſiſtance in caſe of neceſſity. This was ſurely a precedent directly in point; for the idea was ridiculous to ſuppoſe a right to raiſe the men, without ſuggeſting the means of ſupplying them; nor could ſuch a diſtinction be taken, unleſs they meant to rely on the abſurd and beggarly diſtinction of the Judges, on the queſtion of ſhip-money, in the reign of Charles the Firſt, when they gave it as their opinion that it was illegal to accept money, but perfectly legal to accept ſhips. This his Lordſhip ſaid was on the face of it a ſilly quibble, as the ſhips could not be manned without money. Whenever the meaſure of raiſing troops by ſubſcription was adopted, it had always been taken advantage of, and made a ground of clamour. He was not therefore

ſurpriſed at the violent ſpeech of the Noble Earl on the ſubject. The meaſure was not a new one; hiſtory ſhewed that there were repeated examples of the like. It had been argued, that if the ſubſcriptions were legal, Parliament was rendered uſeleſs; becauſe, if the executive power could, by this authority, raiſe five hundred pounds, it might, by the ſame authority, raiſe *five millions*. Extreme caſes, when uſed as an argument, are abſurd, as they prove nothing. As well might they ſay, that his Majeſty might raiſe money enough to pay the national debt. Was it to be ſuppoſed, when the power of ſubſcribing was in the people, that they would give money to be uſed to their prejudice? As to hints from Government, he diſclaimed all ſuch; the letters only ſtated, after recommending the plan, that ſubſcriptions might be deſirable. What was the regular mode of proceeding in all ſuch caſes as the preſent? When miniſters had adopted any plan, they came to Parliament, and then, and then only, could Parliament give it their ſanction; for not before could it be ſaid to be complete. In the preſent inſtance, however, miniſters had ſhewn a degree of anxiety to come forward, for the letter itſelf was only dated the 14th of this month; and, before the 27th, they had not only put copies of the papers upon the table, but he underſtood that they had actually brought a Bill in upon them in the other Houſe of Parliament. He could not, therefore, ſee any ground for throwing any blame upon them; and, as the motion made by the Noble Lord rather went upon the inveſtigation of an abſtract queſtion, which he conſidered as totally unneceſſary and unfit for diſcuſſion in the preſent moment, he would move the *previous queſtion* upon it.

The Earl of Macclesfield declared, that he could not, from the information which he had received from Oxfordſhire, coincide with the aſſertion made by the Noble Lord with reſpect to that county. Gentlemen there were as willing to contribute as in any county: They waited only for the ſanction of Parliament.

The Earl of Lauderdale ſaid, he might poſſibly have been miſled with reſpect to what had paſſed at the meeting in Oxfordſhire; but he had underſtood it very differently from the account given by the Noble Earl, and his information came from very reſpectable authority.

The Earl of Warwick ſaid, he roſe to ſet the Noble Earl right reſpecting the Warwick Meeting, which was held at the St. Alban's Tavern. For want of a better Preſident, his Lordſhip ſaid, that he had himſelf been called to the chair. The Gentlemen preſent were but few; in all about ſixteen. It was reſolved to ſubſcribe, and to conform, to whatever King, Lords,

Lords, and Commons, ſhould think proper. A further Meeting was ordered to be called in the County, and it was the general wiſh to ſupport miniſters in the proſecution of the war. His Lordſhip ſaid, that he did not conceive it proper that any man ſhould throw obſtacles in the way of a meaſure calculated to promote the welfare of the kingdom. For his own part, he would act as a friend to the Conſtitution, and a friend to Government.

The Earl of Derby ſaid, he rarely treſpaſſed on the Houſe, and that it was always with great diffidence and pain to himſelf that he troubled the Houſe at all. He meant to be ſhort, and from the able and eloquent ſpeech of his Noble Friend who made the motion, he ſhould be ſtill more ſhort than otherwiſe he would have been. His firſt object would be to take notice of what had fallen from the Noble Earl near him (Lord Macclesfield). He gave the Noble Earl full credit for the diſintereſtedneſs of his motives, and hoped the Noble Earl would give him the ſame credit when he aſſured the Houſe, that he ſhould be as ready as any man to ſtrengthen the hands of miniſters when real danger preſſed. He had ſaid ſo the other day in a thin Houſe, and was willing to repeat it in a fuller. What had fallen from another Noble Earl ſtood upon ſimilar principles; he had declared that the Gentlemen of Warwickſhire were ready to do every thing that King, Lords, and Commons, thought right. This completely anſwered all that he deſired. He, therefore, approved much of the proceedings in the county of Warwick, becauſe he conſidered the ſanction of Parliament to be the *ſine qua non*. As to the diſtinction between voluntary ſubſcription and compulſion, which another Noble Lord had dwelt ſo much upon, he would aſk, if there was not more than one ſort of compulſion? Was there no compulſion but that of priſons, fetters, chains, and whips? Undoubtedly there was the compulſion of apprehenſion felt by men of timid minds. Might not a man, from many reaſons that could not be called compulſion, do a thing he conceived not to be ſtrictly right, rather than expoſe himſelf to reproaches, however unmerited, that, from the temper of the times, he was liable to, if he did not agree to it? This he knew as a fact, that perſons had ſubſcribed who diſapproved entirely of the meaſure, and had told him they did it merely becauſe they foreſaw the manner in which they would be miſrepreſented if they did not. This might be called compulſion on the mind; and to any feeling mind was as great a compulſion as any that could be impoſed. He conſidered this *requiſition* (the only name it could get), as perfectly againſt all the ſtatutes that had been quoted. As to the

word "desirable," it was enough that those who did not acquiesce were to be considered as marked men. Another recommendation of this mode, was its uselessness for the defence of the country: The Public were not uniform in their opinions: One county was for a regiment of fencibles, another for a company, a third for cavalry; and in this disjointed and confused way was it possible that such forces could ever be brought to act properly together, upon any emergency, like a regular disciplined militia? With regard to the appropriation of the sums subscribed, the counties had no information; it was indeed stated, that they were to be under the controul of a Committee; but what Committee nobody knew. The precedents that had been brought forward in support of the measure did not at all apply. He mentioned two troops that had been raised in Liverpool in 1782 without any expence whatever. He would not allow the justness of the comparison between the present measure and that of 1782. He stated the opinion of Earl Mansfield on the case of 1778, and likewise reminded the House how it was answered by Earl Camden. He declared he admired Lord Mansfield, and regretted his loss; but he did not always approve of his opinions. He opposed the war, because he thought it unjust and unnecessary, and likely to prove dangerous in its consequences to the constitution and liberties of the country; but he was by no means unwilling to give ministers support when they merited it. The present war was said to be popular; popular opinion was not always correct; and he owned he had no great faith in majorities, because majorities were not always in the right: He, for one, had long been in a majority that he would repent all his life-time; it was for carrying on the American war: He saw his error amongst the first who did so, and changed his opinion and his conduct; and he saw that majority dwindle into a minority, which proved that he had been right in quitting the majority. Ministers must be convinced that, in their hurry, which was the worst way of doing any thing, they had done wrong; and as it was never too late to do well, they should acknowledge their error, and make amends for it by their conduct. Now the opinion of the country was pretty evident, as the subscriptions were not to be touched at all, till it was known whether Parliament approved of them or not.

The Marquis Townshend objected to the motion of the Noble Earl; he declared, he saw nothing reprehensible in the conduct of ministers, in respect to the subject of discussion; the measure had arisen out of the circumstances of the case. The Marquis said, he could speak for the county of Norfolk.

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He affirmed, that in that county, of which he had the honour of being Lord Lieutenant, the ſpirit of ſubſcribing, in order to raiſe a force for the defence of the country, had not been produced by the ſolicitations of Government, but had firſt ſhewn itſelf among the people themſelves, who were eager to offer their ſervices, being alarmed for the exiſtence of their King, their conſtitution, their religion, and their property, by the proceedings of the democrats in Britain, who, in correſponding ſocieties, were taking meaſures to introduce all the enormities which were raging in a neighbouring nation. He ſaid, the uſe of employing men who knew the political prejudices of their neighbours, and could tell who were dangerous and who were not, was obvious. That there were perſons in this kingdom who correſponded with the French, and were deſirous of introducing their ſyſtem and their principles among us, was well known to Government, and tolerably well known to the Public in general. Care, therefore, ſhould be taken to repel the machinations of the latter, and he hoped a proper force would be eſtabliſhed at home, to be compoſed of perſons well affected to the conſtitution, and headed by Gentlemen of property. It would alſo be particularly advantageous that theſe corps ſhould conſiſt of the middle claſſes, who muſt be well acquainted with thoſe in their neighbourhood who might be ſuſpected of diſaffection to the conſtitution, and who, in caſe of any commotion in manufacturing towns, ſuch as Norwich, might be enabled immediately to fix on ſuch perſons as would be moſt likely to promote it. This was an advantage which regular troops could not poſſeſs; they could not diſtinguiſh between the loyal and diſloyal part of the community. The meaſure of the preſent time had been in agitation in 1782. To prove this, the Marquis read an extract from the ſpeech of Mr. Fox, when Secretary of State, upon the ſubject, in which Mr. Fox emphatically aſked, What danger there could be in arming the people of England? He ſpoke reſpectfully of Mr. Fox, but could not help ſaying, that ſurely if the arguments he had read were allowed to be good in 1782, they ſhould be equally good at this time. He urged the neceſſity of employing the regular troops abroad. He ſaid, he knew not the intended operations of the campaign on the continent; but if France ſhould prevail, and get the better of Holland, where would be the ſecurity of that ſhore oppoſite to it, or even the capital itſelf? It was certainly better, therefore, to enable Government to ſend the regular troops on foreign ſervice, and adopt ſuch a plan as was propoſed, which could not injure the recruiting ſervice by interfering with levy-money, and the immenſe bounties given for ſubſtitutes.

The Earl of Derby denied that any money had been expended by the ſubjects in conſequence of the meaſure of 1782. He was not willing to cope with the Noble Marquis on military ſubjects, but the caſes he had ſtated of the Liverpool troops were inſtances to prove his aſſertion. With regard to the extract from the Parliamentary Regiſter, read by the Noble Marquis, he ſaid, his Right Hon. Friend never ſent his ſpeeches to the Reporters. He heartily wiſhed, for the benefit of the country, that he did, as in that caſe his powerful arguments, and dazzling flaſhes of eloquence, would be preſerved and admired for ever. As the caſe ſtood, ſuch publications, though in ſome inſtances pretty correct, were not to be relied on as good authorities. The Earl obſerved, that as Government knew of perſons who correſponded with the French, they were highly culpable in not bringing them to juſtice. He condemned the principle of arming one deſcription of men againſt another, becauſe private animoſity might avail itſelf of that pretext to take vengeance on the King's beſt ſubjects.

The Earl of Caernarvon ſaid, that the matter had been ſo ably diſcuſſed, that he ſhould not have troubled their Lordſhips, but for ſome obſervations which had fallen from the Noble Earl (Derby) who had juſt ſpoken, and from ſome other Noble Lords, which he thought ought not to paſs unobſerved. He ſaid, that there was no rule of conſtitutional law which he held more ſacred, than that the Crown cannot, by any prerogative, levy money without the conſent of Parliament. There is no practice that he would more jealouſly watch than one which ſhould appear ſubſtantially to derogate from, or to evade that protection, which the intervention of Parliament gives to the purſe of the ſubject; and to give this jealouſy its fulleſt ſcope, he was willing to conſider as illegal all that may be proved dangerous to the ſecurity of the purſe of the ſubject, from the influence as well as force of power. But when he admitted this to its fulleſt extent, he was by no means ready to admit that the conſent of Parliament (though it is the ſole organ by which the national voice can be heard, the ſole channel by which the whole nation, or even a ſingle individual, can be *compelled* to contribute to the public exigencies) is neceſſary to enable any individual to diſpoſe of his own money in any way he pleaſes, if the object to be attained by it is a legal object. He agreed with the Noble Lord (Hawkeſbury) that the true teſt of the legality of any application of money by private contribution, muſt depend upon the legality of the object to which it is applied. If it is illegal and dangerous to give money, or, what is exactly the ſame, money's worth, to the Crown for public uſes, there is not a day

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paſſes which does not witneſs ſome ſuch illegal and dangerous practice; and the Noble Earl who moved this diſcuſſion has remained the patient and ſilent ſpectator. There is no law, nor principle of law, nor declaration of Parliament, that impeaches in the ſmalleſt degree this right which every man has over his own purſe: No ſentence in any record, from Magna Charta, through the Statute Book, down to the Declaration of Rights, touches this right of property. Several Acts of Edward the Firſt protect the ſubject from being *compelled* to pay aids without the aſſent of Parliament. The Petition of Right, which was calculated in that clauſe for the purpoſe of obviating all inconveniences of forced loans and benevolences, ſays, in clear and unequivocal terms, "that no man ſhall be *compelled* to yield any gift, loan, or benevolence, without common conſent of Parliament." If the patriots at that time, under the impreſſion of the evil which recent experience had pointed out, and earneſt to apply an effectual remedy to the miſchief, had thought a real benevolence, or a free gift of any kind to the Crown, dangerous, they could eaſily have omitted the word *compelled*, and ſaid, no man ſhall yield any gift, &c. without conſent of Parliament. The Declaration of Rights, after a ſecond experience of direct, compulſory application, to the ſubject by the hand of power, without the intervention of Parliament, in applying the remedy, confines itſelf to words of the ſame import with the former, and aſſerts, "that levying money for the uſe of the Crown, *by pretence of prerogative*, is illegal." This is the uniform import of all the ſtatutes, and all the declarations. Let us examine the deliberate opinion of great lawyers upon the ſubject ſince thoſe declarations. Mr. Juſtice Blackſtone, ſpeaking of the ſacred and inviolable right of property, ſays, "that no ſubject of England can be *conſtrained* to pay any aids, or taxes, even for the defence of the realm, or ſupport of government, but ſuch as are impoſed by his *own conſent*, *or* that of his Repreſentatives in Parliament." He ſtates here two modes by which he may bind himſelf to pay toward the public exigencies, his own perſonal conſent, *or* that of his repreſentative; he ſeems not to have imagined it was poſſible for any man to doubt, whether he could apply his own money to any legal object. But Lord Balmarino's trial furniſhes us with another high legal opinion, given on a ſolemn occaſion, with a full knowledge that the contrary doctrine had been ſtudiouſly circulated to diſcourage the ſpirited exertions of thoſe times. Lord Hardwicke preſiding at that trial ſays, "that men of all ranks and orders crowded in with liberal ſubſcriptions of their own motion beyond the example of former times, and uncompelled by law, and yet in the moſt

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legal and warrantable manner, notwithſtanding what has been ignorantly and preſumptuouſly ſuggeſted to the contrary." Theſe are the opinions of men of the moſt acknowledged and moſt conſpicuous legal talents, and of the moſt unreproached characters; and there is no ſingle law or declaration to the contrary. The Act of the 13th of Charles IId, which is the ſole ground upon which the Noble Mover has made a plauſible argument, has received its fair anſwer from a Noble Lord (Hawkeſbury). The Noble Earl (Derby) has totally miſtaken both the inference the Noble Mover deduced from that Act, and the obſervation made by the Noble Lord in anſwer. The Noble Mover ſtated, that the Act of the 13th of Charles IId, by giving an occaſional legality to the private voluntary ſubſcription of certain ſums of money, for the immediate uſe of Charles IId, on his return to his throne, and by limiting the operation of that law to 200l. from any commoner, and 400l. from any peer, and by a clauſe rebrobating the future practice, as he ſays, of ſubſcriptions, did clearly and explicitly give a Parliamentary condemnation of private aids to the Crown, and marked that they were illegal without the conſent of Parliament. This was the inference from this ſtatement of the Act by the Noble Mover; and it received its fair anſwer from the Noble Lord, which has been miſunderſtood. That Act profeſſed to be an Act of Parliamentary ſupply, and took theſe private contributions as its baſis, and gave to private gifts that *certain* and full effect, which, without Parliamentary concurrence, it could not have, namely, the force of a law, by which the ſum voluntarily ſubſcribed could (*non obſtante* all the ſtatutes before cited) be conſtrained, and recovered by regular proceſs of law, againſt the reſiſtance of the ſubſcriber, and thus converted free and precarious gifts into forced benevolences, or, in fact, into legal taxes; and the clauſe alluded to had no intention to diſcredit free gifts, but was a ſalvo againſt the danger of a Parliamentary practice, of converting free gifts into regular taxes, contrary to the ſpirit of the former laws and declarations, which, in their approved jealouſy, had declared, that no man ſhould be *compelled* to pay free gifts, &c.; and the Act of the 13th of Charles IId, therefore, left free gifts and benevolences in future upon the ſame footing as if that Act had not paſſed. This ſtatement of the Act, which is the true one, certainly cuts to the root that inference, from which the Noble Mover had raiſed the ſole argument which could give a moment's colour to his doctrine. The Noble Earl left his motion with an obſervation on its great importance, that it remained with us to decide, whether in future the Crown could, or could not, levy money without conſent

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of Parliament? And the Noble Earl (Derby) ſays, that thoſe who ſupport the previous queſtion muſt admit the truth of the poſition contained in the motion, which they dare not deny, and do not wiſh to aſſert. There is no foundation for either of theſe aſſertions; for even if that queſtion was intended by the Noble Mover, he has not brought it forward by the words of his motion, and if he had, it would not have met the leaſt oppoſition of ſentiment, but it would not have applied to the circumſtances which give riſe to the debate, any more than his preſent real motion does. And I return my thanks to the Noble Lord who moved the previous queſtion, becauſe he has removed an inapplicable motion from before us, which no event, or circumſtance, calls for, and which I do not think deſerving the attention of the Houſe, as being an abſtract propoſition, ariſing from no applicable circumſtance. In following the Noble Earl thus far into the general ſubject, I followed his argument, though it has nothing to do with the particular caſe; for he has not brought within the ſcope of Parliamentary jealouſy, much leſs within the imputed breach of any conſtitutional law, the circumſtances which have led him to awaken your attention to the papers on your table. To meet the caſe, the ſubſtance of his motion ought to be, that it is illegal and dangerous, without the *previous* conſent of Parliament (which is of late become a faſhionable epithet), for the King's miniſters to *communicate* a variety of undecided plans, which have occurred for the internal defence of the country, to the Gentlemen of the reſpective Counties, through the medium of the Lord Lieutenants, and to ſuggeſt that a voluntary ſubſcription may be a neceſſary and uſeful mode of giving effect to ſuch levies, at the diſcretion of Committees: This muſt be the ſubſtance, or it will fail of any application to the ſuppoſed occaſion, ariſing from any thing in the papers on your table. I can feel no difficulty in this caſe (if I entertained any on the extent of any general propoſition, which, as far as I am able at this moment to judge, I do not) to ſay, that it is not only a legal, but a wiſe and prudent meaſure, and that without ſome ſuch equivalent meaſure, no buſineſs whatever could be faſhioned, arranged, and forwarded for Parliamentary deliberation and deciſion. It is the neceſſary and invariable practice, in the two great branches of Parliamentary duty, the levies of men and of money; but, by the doctrine laid down, it would be dangerous and illegal in a miniſter to diſcuſs or negotiate the terms of a loan before a Parliamentary approbation of thoſe terms, and grant of the money; it would be illegal to ſeek by various ſuggeſtions that information which is neceſſary previous to a Parliamentary

ſtatement of Ways and Means. The Noble Lord has laid down certain axioms, from whence he gets rapidly to his concluſion; but thinks himſelf diſpenſed with from proving the grounds of what he deems axioms. He aſſerts, that it is unconſtitutional for the King to ſolicit money from the ſubject, and from thence, as a political *datum*, he draws his concluſion that the papers on the table are illegal; but I have not been able to collect clearly, whether he aſſerts that it is illegal in the ſubject to *give*, and illegal in the Crown to *receive*, an aid, or only illegal to hint that it would be acceptable; for he admits that his inſtances do not go up to thoſe points, except the ſlender inference he has ſtrained from the 13th of Charles IId. And he ſeems to ſay, that it is not neceſſary to go the length of thoſe poſitions to reach the preſent caſe; but if the Noble Lord heſitates to go the length of theſe poſitions, he muſt leave the cited inſtances to prove, that it is legal to give, and legal to receive, what in his opinion is not legal to aſk; which narrows the ſubject to a ſlender point, upon which all his dexterity would not enable him to maintain a footing. I do not know whether the Noble Lord means to deny the legality of all thoſe negotiations between the King's miniſters and individuals to raiſe regiments, which has been in conſtant practice by all adminiſtrations in every war, by which great bodies of men have been raiſed at leſs expence to the Public than by other means. If the Noble Earl denies the legality of theſe levies, the conſtant, unreproved practice, under the eye of Parliament (no law exiſting againſt it), will ſufficiently prove and eſtabliſh the legality of raiſing regiments by individuals at their expence, which Parliament, in its juſtice, could not compel, but may ſanction and approve, when the treaty between miniſters and individuals is concluded, if the nature of the caſe requires that ſanction. If this practice is legal, and not dangerous, and it is (beyond all doubt) the conſtant, unreproached practice, my imagination is at a loſs to ſuggeſt to itſelf the ſhadow of a difference between this practice and that now complained of; by which miniſters diſcuſs the ſubject of a levy, not indeed with a few individuals, but with the Gentlemen of every county, who are diſpoſed, at their own expence, to raiſe men, through the medium of the Lord Lieutenants of their reſpective counties. Both theſe negotiations are equally between the King's miniſters and private individuals, and have for their baſis that the individuals ſhall find money voluntarily, without impoſition by Parliament, for the levy of ſuch troops as the King may legally have for the public exigency. If I could raiſe my jealouſy of this tranſaction, or ſee any danger from the practice, or thought

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the words of any law doubtful on the ſubject, all this doubt and heſitation would vaniſh, before the ſanction given to the exact practice in 1782. The Noble Earl (Derby) ſtrongly aſſerts, that this inſtance does not apply; that not the leaſt hint of the expectation, or wiſh, to raiſe money, can be traced in the tranſaction of that period. I am ready to argue that point in any way the Noble Earl pleaſes, even with the admiſſion that no money was required, though I will preſently prove the contrary. My Lords, I ſeriouſly lament that the Noble Marquis who was Secretary of State at that period is not now in his place; he would much more ably, and with greater effect than I can do, detail to your Lordſhips the ſtrong and cogent reaſons that made him think that meaſure juſtifiable; he would have concurred with me, but with greater weight, in ſupporting the legality of the ſimilar meaſure of this day; he was then in office, and did not act in ſo important a matter without the fulleſt deliberation; and he would have ſupported his own meaſure, with his uſual eloquence, againſt the attacks now made upon it by the doctrine laid down by the preſent motion. The Noble Earl, though he denies that there is a requiſition of money in the letter circulated to the great towns in 1782, admits a requiſition for an armed force without the conſent of Parliament, or, if the Noble Lord likes the word better, a propoſition for an armed force. Such propoſition is as illegal, according to the doctrine now laid down, as a ſuggeſtion towards a contribution. In truth, it is more ſo; for the only argument uſed to prove a ſubſcription to be illegal is, that ſuch ſubſcription might be uſed to raiſe troops. It is the jealouſy of raiſing troops without the intervention of Parliament, that recoils by the argument on the free diſpoſal of private property, and is uſed to impeach the legality of a ſubſcription. The demand of troops without the intervention of Parliament, confeſſed by the Noble Earl to have been the object of the meaſure of 1782, equally trenches on the doctrine laid down by the Noble Mover, as the moſt explicit ſolicitation of money could have done. But, my Lords, can any man ſeriouſly aſſert, that the plan propoſing to the great towns "to *furniſh* one or two battalions each," for thoſe are the words, and ſtating clearly and diſtinctly what part of the expence Government will ſupply, does not as clearly and diſtinctly propoſe to the great towns, to defray the remainder at their own expence? Are one or two battalions to be raiſed without money? Does the experience of any time authoriſe that expectation? Does the circular letter alluded to propoſe that Government ſhould pay the levy? No.—The towns are to *furniſh* the men; and the 8th clauſe pro-

poſes, what never before or ſince has ever been propoſed to any individuals raiſing regiments, that they ſhould pay the arms, accoutrements, and ammunition. It is true that the clauſe ſays, that Government will furniſh thoſe neceſſary articles, *if required*; but this neceſſarily implies a pretty ſtrong hint, that Government hoped and expected they would be at that expence, as well as of the levy, which is no part of the plan Government propoſes to furniſh, even if required. In the 16th clauſe Government ſays, that the officers and men ſhall receive the ſame pay as other regiments of foot from the time they march out of their own town; the pay of the men, therefore, or ſuch ſatisfaction as the great towns can agree with the men to receive for their loſs of time, is to be defrayed by the towns until the troops quit the towns. The Noble Earl cannot ſeriouſly mean, that if the word *money* is avoided, the act, otherwiſe illegal, would become legal, which obviouſly requires money's worth, or the expenditure of money. The Noble Earl ſays, that to his knowledge ſome perſons, in conſequence of that letter, aſſociated themſelves without being paid, and did not expect money. I doubt not the fact; but that does not prove that others did expect it, and were actually paid by ſubſcriptions: And, as I underſtand, the great towns in their anſwers to the Noble Marquis ſaid, in many inſtances, that they had raiſed a ſubſcription to carry the propoſed plan in execution, and, in many inſtances, that they ſhould raiſe money for that purpoſe. Certainly if this is true, which I have not the means to prove, though I firmly credit it, the great towns underſtood the propoſition as every man who reads it muſt do; but if they were under a miſtake, and the Noble Lord had ſo obſcurely worded his letter as to have produced this error, which, according to the doctrine of to-day, made the whole difference between the legality or illegality of the meaſure, did the Noble Marquis, if he thought it illegal, take the earlieſt opportunity to exculpate himſelf from a ſuppoſition which tended to impute to him an offence againſt the conſtitution? Did he inform them that they had miſtaken him? That he deſired no ſubſcription? That he aſked of them nothing but what could be done without money? That it did not require money to furniſh battalions of men, arms, accoutrements, and ammunition? If he did not make this anſwer, he acquieſced in their conception of his propoſition; if he did, I leave your Lordſhips to judge what opinion the great towns muſt have had of the faculties of ſuch a miniſter. I have therefore no doubt, that the meaſure adopted by Government is ſtrictly conſtitutional, ſafe, and conſonant to practice; and I concur with the previous queſtion, becauſe the motion

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is not neceſſary to be diſcuſſed, nor applicable to any exiſting caſe.

The Earl of Hardwicke was deſirous of troubling their Lordſhips with a few words in conſequence of finding himſelf in a different ſituation from many of thoſe who in their official capacity had received the Letters of the Secretary of State. Before the receipt of thoſe letters, he underſtood that it was the opinion of miniſters, whoſe indiſpenſable duty it is to watch over the intereſts and ſafety of the country, that further means of defence and ſecurity ſhould be immediately provided. Under theſe circumſtances, he thought it his duty to attend the Aſſizes of the county of Cambridge, for the purpoſe of ſtating to the Grand Jury the different plans that had been ſuggeſted; and he had the ſatisfaction to find that the Gentlemen who were preſent upon that occaſion, were unanimouſly convinced of the expediency of increaſing the means of defence, according to the ſituation and circumſtances of the county. They agreed alſo in the propriety of entering into a ſubſcription for promoting that object, for it was evident that of the Gentlemen who might undertake the command of the new levies, whether troops of fencible cavalry, or volunteer companies, to be added to the militia, very few would be able to ſupport the expence of paying the bounties that would be neceſſary, and of defraying other expences that might ariſe, for which no allowances are made by the Public. The neceſſity therefore of a ſubſcription, was ſo clear and obvious, that Lord Hardwicke expreſſed himſelf ſurpriſed at the idea of a ſubſcription being ſuggeſted by Government, ſince it would naturally have been adopted in every part of the country, as the only method of promoting thoſe objects which are equally intereſting to all. But, though he conceived the ſuggeſtion to be perfectly unneceſſary, he could by no means think it illegal; ſince it could be conſidered as nothing more than an invitation, in the ſame manner as the letter of the Earl of Shelburne to the different towns in the year 1782. He thought it impoſſible to diſtinguiſh between the two caſes, and could not help regretting the abſence of the Noble Lord, the author of thoſe letters on the preſent occaſion. So convinced indeed was the Noble Marquis of the legality of the meaſure, that an expreſs alluſion is made to it in the Speech delivered from the Throne, at the opening of Parliament in December 1782. After deſcribing the gallant defence of Gibraltar, the ſucceſsful relief of the garriſon, and the circumſtance of the Britiſh fleet, after having effected the object of their deſtination, offering battle to the combined force of France and Spain on their own coaſts, his Majeſty proceeds

to ſtate, that thoſe of his own kingdoms had remained at the ſame time in perfect ſecurity, and the tranquillity of the country uninterrupted. This reſpectable ſtate, under the bleſſing of God, he attributes to the entire confidence which ſubſiſts between him and his people, and to the readineſs which has been ſhewn by his ſubjects in the city of London, and in other parts of the kingdom, to ſtand forth in the general defence. This paragraph of the ſpeech concludes by a complimentary alluſion to the ſubſcription in the county of Suffolk, and to the intention declared at that time by a private Gentleman, of building ſhips of war for the public ſervice. "Some proofs have lately been given of public ſpirit in private men, which would do honour to any age, and any country."

Lord Hardwicke then adverted to an opinion, on which much ſtreſs had been laid in the debate, of a Noble and Learned Perſon, for whom on every account he felt himſelf bound to entertain the higheſt reſpect and veneration; an opinion delivered upon a moſt awful and ſolemn occaſion, upon the condemnation of three perſons of high rank and conſequence, who had been found guilty by their Peers of high treaſon, for having aſſiſted in a rebellion, the object of which was, to ſubvert the government and conſtitution of theſe kingdoms. And it is remarkable, that this opinion, ſo decidedly pronounced in favour of the legality of ſubſcriptions of this nature, was retroſpective, and appears to have been given for the purpoſe of diſpelling any doubts that might have been entertained of the propriety of acts, the neceſſity of which no longer exiſted. Great pains were undoubtedly taken by the Tories and Jacobites of thoſe times, to obſtruct every meaſure that was adopted for the ſecurity of the country, and the ſuppreſſion of the rebellion; but it did not occur to any man, who was a real friend to his country, and to the government eſtabliſhed at the Revolution, that thoſe Noblemen and Gentlemen who ſtood forth ſo honourably to themſelves and ſo uſefully to the Public in ſupport of the common ſafety, were guilty of any illegal or unconſtitutional act, and no one ventured to inſinuate that the Duke of Bedford, the Duke of Montague, Lord Gower, Lord Hallifax, the Marquis of Rockingham, Sir Conyers D'Arcy, Lord Holderneſs, and the other Gentlemen, whoſe exertions in the public cauſe ought never to be forgotten, were guilty of any other crime than that of duty and loyalty to the King, and zeal for the intereſts of their country. Lord Hardwicke was aware, that to add any thing to the opinion which had been ſo often alluded to, would rather weaken than confirm, or add weight to it; and being perfectly

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ſatisfied of the legality of voluntary ſubſcriptions for the public ſafety in times of danger, he ſhould give his vote in favour of the previous queſtion.

Lord Onſlow roſe, not, he ſaid, to enter into a diſcuſſion of the general ſubject, but merely to ſpeak to a point, having been alluded to, in what related to the meeting of the county of Surry. He roſe in defence of that meeting, and he would begin, by ſaying that if there was any thing improper in the advertiſement concerning the meeting of the Gentlemen of Surry, at Kingſton, he was alone guilty of that impropriety, having not the ſmalleſt heſitation to avow himſelf the author of the advertiſement complained of by the Noble Earl who had opened the debate. So far from holding out any thing like a threat, he did moſt ſolemnly aſſure their Lordſhips, that neither in the terms of the advertiſement nor in his own mind was the moſt diſtant idea of a menace entertained or intended. He thought it his duty as Lord Lieutenant of the county to call on thoſe, who were anxiouſly deſirous of taking every means for the ſecurity of the King and conſtitution, which they revered and admired, to ſeize the opportunity that preſented itſelf, and he did ſo, on the conſciouſneſs and aſſurance that there were many of that opinion who would be zealous and active, the moment they heard there was ſo good an occaſion for the exerciſe of their zeal and activity. The conduct of the Gentlemen at the meeting in Surry, his Lordſhip denied to have been ſuch as the Noble Earl had ſtated it to have been; on the contrary, it was much the reverſe of the Noble Earl's repreſentation. The circular letter of the Secretary of State was not underſtood to be a *requiſition* on the part of miniſters, nor a demand, nor any thing like it, but a propoſal for the conſideration and opinion of the county. Having the honour to be his Majeſty's Lieutenant, he had called the meeting, and they had ſaid, they would hear what was the language of Parliament, and then decide; the conſequence was, another meeting was agreed on, and ſummoned for the 10th of next month at Epſom, the Gentlemen preſent all profeſſing a willingneſs to ſupport Government. His Lordſhip ſaid, his conduct in convening the meeting had been the ſame with that of his predeceſſors in the Lord Lieutenancy of the county, ſome of whom had been the greateſt men that ever lived in Surry. No fault had been found with ſuch a proceeding, till the preſent period, when thoſe who pretended to be jealous of the Crown, would not allow the ſubject to come forward to aid it, even when it was found neceſſary.

Earl Stanhope ſaid, he did not intend to have ſpoken at all upon this queſtion, but he felt himſelf called upon by the alluſions

luſions made to the conduct of a Noble Marquis (now abſent) in the year 1782; that was perfectly different; and after the diſcuſſion a few nights ago, when a Noble Secretary of State (Lord Grenville), relative to his Majeſty's not having the legal power to maintain a ſtanding army without the conſent of Parliament, had expreſly ſtated, that neither in time of peace or war had his Majeſty any ſuch power. In that point the Houſe had been unanimous, although a Noble Lord had been miſunderſtood, and had been ſo anxious on the dread of being handed out to the Public as an exception to the unanimity that had prevailed on the ſubject, that he had come down and moved to have the words in the Earl of Radnor's proteſt, marking him as an exception, expunged from the Journals.

Lord Sydney ſpoke to order; his Lordſhip ſaid, it was impoſſible for him to ſit ſilent from day to day, and not endeavour to reſiſt the torrent of diſorder that of late was pouring down upon them. Nothing could be more diſorderly, than the frequent practice of late introduced, of referring to what had paſſed in former debates. If ſuch a practice were permitted, their Lordſhips would never come to a deciſion on any one queſtion whatever, ſo much would its diſcuſſion be broken in upon by the introduction of ſome alluſion to what had been formerly ſaid on matters totally foreign to the queſtion.

The Earl of Lauderdale ſpoke to the queſtion of order. He concluded that what was order for one Noble Peer ought to be order for another. A Noble Marquis had been ſuffered to read a ſpeech of a Member of another Houſe of Parliament, and no one Lord had called him to order. His Noble Friend had merely alluded to an argument immediately relative, and was not diſorderly in ſo doing.

Earl Stanhope ſaid, that the only proper mode of calling a Peer to order for words, was to move to have the words taken down at the time, and to propoſe a queſtion upon thoſe words for the deciſion of the Houſe.

Lord Onſlow denied that any ſuch rule, however the ſtrict rule of order, generally obtained. Noble Lords might call to order without being obliged to take down a Member's words. It was, his Lordſhip ſaid, a common practice in both Houſes of Parliament to call to order, when a Member ſpoke irregularly, and the call was by connivance conſidered as a hint of which it was fair for the Member to avail himſelf, correct his departure from order, and proceed with his ſpeech more regularly.

Earl Stanhope denied that he had been out of order. He inſiſted upon it, that the only correct way of enforcing order was to take down the words, ſtate a queſtion upon thoſe words,

and

and take the judgment of the Houſe upon that queſtion. He owned it was cuſtomary for Members in either Houſe to give the perſon on his legs a *hint*, that he was diſorderly; and if the Noble Peer or Member ſo ſtopped choſe it, he might profit by ſuch hint, correct his irregularity, and go on; but if a Noble Lord was not conſcious of being diſorderly, he had a right to inſiſt on the rule of the Houſe in reſpect to order being ſtrictly complied with.

Lord Grenville ſaid, nothing could be more diſorderly than the Noble Earl's conduct in referring to a former debate. His Lordſhip pointed out the extreme inconvenience that muſt neceſſarily reſult to the tranſaction of public buſineſs in either Houſe of Parliament, if ſuch irregularity were ſuffered to obtain.

The Duke of Leeds ſaid, it was a queſtion with him, whether the calling the Noble Earl to order had been ſtrictly juſtifiable. He rather thought the Noble Earl was firſt diſorderly in having alluded to what had been ſaid by his Noble Friend the Secretary of State on a former occaſion. That led him to what he had afterwards ſaid in reference to the conduct of a Noble Lord, who not being quite familiar with the forms of that Houſe, had accidentally a little miſtaken his regular courſe of proceeding.

Earl Stanhope reſumed his ſpeech, and ſaid, he had ſpoken to a former motion, and not to a former ſpeech, and no man ſhould prevent his reference to former motions, becauſe he was perſuaded it was no breach of order ſo to refer. He muſt, however ſtill contend that the only regular mode of calling to order was by moving to take down the words, and then ſtating a queſtion on thoſe words ſo taken down. His Lordſhip quitted further diſcuſſion of the queſtion of order, purſued his argument, and noticed what had fallen from Lord Hawkeſbury, the Earl of Caernarvon, and other Noble Lords, who had ſpoken againſt the queſtion, and ſtrenuouſly defended the conduct of the Noble Marquis then abſent. His letter in 1782 was, he ſaid, far different from the preſent circular letter of the Secretary of State to Lord Lieutenants. The letter ſent to the Mayors and Magiſtrates of great towns by the Noble Marquis, expreſsly requeſted the *obſervations* only of thoſe Magiſtrates upon the practicability of the plan ſuggeſted, whereas the preſent letter went a great way farther; and as to talking of money, there was no money mentioned in the letter of 1782; whereas in the preſent, ſubſcriptions were called for by name, the indorſe of one of the papers preſented being "General Subſcription." It was worthy of obſervation, the Earl ſaid, that the Noble Lord who had ſpoken ſecond in the debate, inſtead of venturing to give a negative to the queſtion of

the Noble Earl, which could not be overthrown by fair argument, had moved the *previous queſtion*. He would take the liberty to explain what the previous queſtion meant, becauſe he knew it was not in general correctly underſtood; and in this explanation he begged leave particularly to addreſs himſelf to the young Members of the Houſe. When a great conſtitutional queſtion was brought forward, and miniſters or their agents moved the previous queſtion, the plain inference was, that they admitted the ſubſtance of the queſtion to be true and undeniable, ſo much ſo, that they dared not meet it, and therefore they took advantage of Parliamentary form to get rid of it. The previous queſtion meant that, and it meant nothing elſe. With regard to the letter of Lord Shelburne, when Secretary of State, that recommended arming the people. He had no objection, the Earl ſaid, to arming the people, but he would have *all the people* armed, and not leave it to the ſuggeſtion of miniſters, or the diſcretion of men of property, who were and who were not to be entruſted with arms. Who knew what uſe miniſters might make of ſuch a power of arming whom they thought proper, which was what they evidently aimed at under their propoſed plan? If a great armed force was neceſſary for the defence of the country, he would readily concur in raiſing it; if arms were to be put into the hands of any large part of the people, he repeated it, that he would recommend that they be put into the hands of the *whole people*; a recommendation which was contained in the Bill of Rights, and which he wiſhed every man in the country to follow; and a recommendation which was ably juſtified in a pamphlet written by a Noble Lord (Hawkeſbury), *A Diſcourſe on the Propriety of Arming the Nation*. He deprecated the principle of arming the people partially; for in that caſe, every man, ſuſpected of being a warm friend to liberty, might be put in danger, while arms would be only given to aſſociators; and, in fact, this meaſure amounted to nothing leſs than arming one part of the country againſt the other, and carrying the principle to a ſtill more dangerous extreme. We might have armed foreigners in the country, an army of Auſtrians for inſtance, although God knew, if thoſe who armed were to bear the expence by a ſubſcription, there was no great danger of the Auſtrians becoming ſubſcribers, as it was well known they had no money to ſubſcribe. It had, he admitted, been well ſaid, by a Noble Lord (Lord Hawkeſbury), that if the object were legal, it made no manner of difference whether men or money were ſubſcribed. He agreed perfectly to that poſition, but denied that the meaſure, whether men or money, or what not, was legal; and therefore, being adverſe to the meaſure itſelf on its gene-

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ral principle, he ſhould give his vote for the motion of the Noble Earl.

The Lord Chancellor left the woolſack, and began by declaring, that he could have no occaſion to go into the diſcuſſion at length, as the queſtion had been amply argued, and very ably, on both ſides. He ſaid, he roſe merely to make a few obſervations on what had fallen from different Noble Lords in the courſe of the debate. And firſt he begged leave to deny that the Noble Earl had fairly explained the nature and meaning of what was termed the *Previous Queſtion*. The Noble Earl had done well to addreſs himſelf particularly to the *young* Members of that Houſe, for any Noble Peer, at all acquainted with Parliamentary forms, could not poſſibly ſo far loſe ſight of his own underſtanding, and his knowledge of the practice of Parliament, as to be led to adopt the ſingular conſtruction of a previous queſtion laid down by the Noble Earl. In fact and in truth a previous queſtion meant no more, than that when a truiſm, or an abſtract and theoretical propoſition was ſtated, and the deciſion of the Houſe upon it was called for, which propoſition, on motives of expediency it was not deemed fit to diſcuſs, it was a mode of getting rid of that queſtion for the moment, without deciding either one way or the other upon that which did not admit of argument. His Lordſhip pointed out the inutility of bringing forward theoretical opinions, and ſaid, that after all that had been urged by the Noble Earl who made the motion, and by thoſe who ſupported him, nothing had been ſtated that proved a caſe to have exiſted upon which any point could be at iſſue, or that either called for, or would admit of diſcuſſion. He declined entering into a diſcuſſion of the ancient precedents reſpecting voluntary contributions, as that part of the ſubject had already been argued ſo copiouſly, but ſaid he would refer to more modern *data*; therefore he begged leave to call the attention of the Houſe in particular to what paſſed in 1745—A rebellion had broken out in Scotland, the rebels had entered England, and twelve Noblemen, of high and diſtinguiſhed characters, ſpiritedly came forward, actuated by an ardent zeal for the family on the Throne, on the rebellion breaking out, and propoſed to raiſe each a regiment at his own expence, which offer was accepted. The rebellion had made ſome progreſs, and the rebels had obtained ſome advantage over the King's troops. Parliament was not ſitting, but the regiments were raiſed. It happened that at that time there were perſons in the other Houſe of Parliament, who, when the Seſſion aſſembled, took occaſion to attack Adminiſtration, and charge them with having ſpread

a falſe alarm, becauſe they had accepted the offers of the twelve Noblemen above mentioned; at the head of whom was the Duke of Devonſhire, whoſe zeal, as well as that of the other Noblemen who joined in the propoſition, did them the higheſt honour. The Seſſion commenced in October 1745, and the pay of theſe twelve regiments was ſoon after brought forward in the Houſe of Commons for the paſt four months. Then it was that the attack, which in the courſe of the ſummer had been a ſubject of clamour without doors, was made on Adminiſtration. Oppoſition charged them with a deſign to deſtroy the liberties and conſtitution of the country. With a view to effect this purpoſe, they ſaid that miniſters had raiſed a falſe alarm; that the danger was trifling; that the King's forces were ſuperior; that they knew General Wade had a powerful army in the north; and that they were perfectly ſure, as they neceſſarily muſt be, that the rebels would be beaten. The leaders of the men who raiſed this clamour, his Lordſhip ſaid, were Sir John Philips and Sir John Hynde Cotton. The eſtimate, however, for the four months ſubſiſtence of theſe twelve regiments, was immediately voted on Sir William Yonge's preſenting it. His Lordſhip accurately ſtated all the Parliamentary proceedings on the ſubject of ſubſcriptions of a voluntary nature, towards the ſupport of Government in moments and times of emergency, quoting Lord Hardwicke's opinion, delivered on the trial of the rebel Lords, the opinion of Sir William Blackſtone, and the late Earl of Manſfield, as authorities in ſupport of the general reaſoning that he applied to the ſubject, as he proceeded. His Lordſhip ſomewhat at length detailed the circumſtances under which Lord Hardwicke delivered his opinion in the year 1747, when he had the melancholy duty to perform of paſſing ſentence of death on four rebel Lords.

His Lordſhip entered into a compariſon between the letter of Lord Shelburne in 1782, and the circular letter then under diſcuſſion, and contended, that if there were any difference, the advantage lay in the preſent inſtance, which did not go ſo far as that of 1782. He begged the Houſe to guard themſelves againſt liſtening to theoretical abſtract diſtinctions reſpecting the conſtitution, which could only involve or perplex them; he begged they would adhere to practice; and as the conſtitution was nicely ſhaded off, and its eſſential bleſſings and benefits depended on certain delicate diſtinctions, evinced in its practice, which were more underſtood and admitted, than capable of preciſe definition, he cautioned their Lordſhips againſt being miſled by any fine theory, and begged them to adhere to

precedent;

precedent; and he thought this argument would particularly have weight, when it was recollected what theory had done in a neighbouring country.

His Lordſhip took a review of the meaſure which had been adopted by Adminiſtration, and of the papers which had been laid before the Houſe, and maintained, that it was premature to cenſure them, as they had only as yet amounted to the ſtatement of a propoſition, which was to be conſidered as a part of a proceeding of importance, in ſome ſort to be agitated without doors, before it was, by conſideration and interchange of opinions, brought to maturity enough to be ſubmitted to Parliament. If ſuch a proceeding were not legal, all bargains for loans and lotteries were illegal, becauſe they were notoriouſly ſettled by the miniſter before the terms of them were ſtated to the Houſe of Commons; and indeed it was impoſſible to make an advantageous bargain in either inſtance without ſuch practice. How, in fact, could any meaſure be faſhioned ſo as to be fit for the conſideration of the Legiſlature of the country, unleſs certain parties were conſulted reſpecting it? And the preſent meaſure, he contended, ſtood in exactly the ſame ſituation. It was remarkably haſty in any Noble Lords to take up this meaſure ſo early. It had not been commenced more than fourteen days, and with an obvious view to ſubmit it to the conſideration of Parliament as ſoon as it was ripe for ſuch a proceeding, and yet it was already attacked. In 1782, the ſame meaſure, though firſt broached to the country on the 7th of May, had not been brought forward even by the Adminiſtration till the 11th of June. He adverted to what had fallen from Lord Stanhope, and gave it as his opinion, that to arm the whole nation would, as he had before ſaid, only be following the example of France, which had diſplayed the experiment in the moſt horrible colours. With regard to the queſtion itſelf, it was, his Lordſhip ſaid, expreſſed in terms extremely ambiguous and unintelligible. What private aids and benevolences, for public purpoſes, meant, he had no ſcruple to ſay his underſtanding had not capacity enough to comprehend. He examined the queſtion minutely, and after deſcanting on each part of it with great acuteneſs, ſaid he ſhould vote for the previous queſtion.

Earl Stanhope ſaid, after having been ſo peculiarly adverted to by the Noble and Learned Lord, he muſt beg leave to ſay a few words in reply. His Lordſhip ſaid, he would ſtill contend that the letter of 1782 was a very different proceeding from the meaſure made the ſubject of the motion. He repeated it, that he had no objection to arming the people if they were to be all armed. He referred to the arguments

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highly culpable for not immediately informing thoſe who had miſunderſtood their meaning, of the magnitude and danger of their miſtake.

The Houſe then divided, when there were,

For the motion	6
Againſt it	82
Majority	76

HOUSE OF COMMONS.

FRIDAY, *March* 28.

The Speaker ſaid, that he had been in the Houſe of Peers, and that the Royal Aſſent was given to the Bill for laying a Duty on Perſons to be admitted Solicitors and Attornies; the Bill for laying certain Duties on Bricks and Tiles; the Bill for regulating the Penny-poſt; and to the Bill for augmenting the Militia; and alſo to ſeveral Private Bills.

Mr. Secretary Dundas read at the bar of the Houſe, his Majeſty's Anſwer to the Addreſs of that Houſe, in which his Majeſty thanked his faithful Commons for the cordial ſupport which they promiſe him in the purſuit of the war.

Mr. Ryder brought up the Bill for indemnifying all governors and lieutenant-governors of the Weſt-Indies, for permitting the exportation and importation of goods in foreign bottoms; which was read a firſt time.

LOTTERY.

The Chancellor of the Exchequer moved the Order of the Day for the Houſe to reſolve itſelf into a Committee of the whole Houſe, to conſider of ways and means for raiſing a ſupply; which was read and agreed to.

Mr. Hobart having taken his ſeat at the table,

The Chancellor of the Exchequer ſaid, the lottery of the preſent year was more advantageous to the Public than the laſt. Seven different perſons had come forward to offer a price for tickets; and of courſe he had concluded a bargain with the higheſt bidder. He moved a Reſolution to the following effect: "That it was the opinion of that Committee, that "towards raiſing a ſupply, to be granted to his Majeſty for the "ſervice of the preſent year, there be granted the ſum of "704,066l. 13s. 4d. to be raiſed by way of lottery, to conſiſt "of 50,000 tickets, at 14l. 16s. 3d. each."

Mr. M. A. Taylor ſaid, that notwithſtanding the *exiſting circumſtances* of the times, which might induce the Right Hon. Gentleman to imagine he had abandoned his oppoſition to a lottery,

lottery, he never had, nor never would abandon it. He ſtill conſidered it to be a mode of raiſing ſupplies pernicious and deſtructive in the extreme; and although inſurance might in ſome meaſure be prevented by the vigilance of the magiſtrates, and the Commiſſioners of the Stamp-office, he ſuſpected that it would never be aboliſhed while a lottery continued. Whatever might be urged upon the neceſſity of raiſing ſupplies, this was a meaſure that depraved the morals of the people. He had conceived, from what had paſſed in former ſeſſions on the ſubject, that the Right Hon. Gentleman had abandoned this fatal project, and he was the rather led to hope ſo, as it was not brought forward ſo early as formerly, but was ſorry to find himſelf miſtaken. He was aware that the war had created alarms, and on that account, when every one admitted the expediency of an increaſe of the reſources, that thoſe who had joined him heretofore would now ſecede, and oblige him therefore to decline the enforcement of that propoſition which he ſhould certainly ſubmit in future. He had hoped, as the lottery of laſt year had turned out ſo bad a ſpeculation, that none would be wild enough to venture upon another; and he was confident that better reſources might be reſorted to. Though it appeared a voluntary tax, he was ſure it was an oppreſſive one, and that it drained the people of more money than any other. From early experience he had lamented the fatal conſequences of it; ſervants and families were ruined, while pawnbrokers were the only gainers. People who had diſpoſed of all their little property by this wretched ſpecies of gambling, had at length pawned their childrens' ſhoes and buckles to purſue the ſame deluſive folly. In ſhort, he believed he ſhould be warranted in ſtating, that all vices have had their origin in lotteries; and if an appeal were made to the judges who preſided at the Old Bailey ſeſſions, they would declare, that many of the unfortunate victims who have ſuffered at the gallows, were firſt ſeduced by the influence of this abominable evil.

Mr. Francis concurred with Mr. Taylor in opinion as to the effect of a lottery; and thought he was right in his determination to do all in his power to put an end to it.

Mr. Fox condemned the lottery alſo, as a ſource of revenue; but would not oppoſe it then, becauſe he ſhould not oppoſe what contributed to the revenue, at a time when we had ſo much occaſion to increaſe it. When this ſubject had been laſt diſcuſſed, he underſtood that a mode was to be adopted with reſpect to drawing, that was different from the former mode: He was ſorry to find, on inquiry, that this new mode had not been productive of all the good that was promiſed at the time

as likely to reſult from it, with reſpect to the prevention of inſurance. He thought ſome further regulation ſhould take place in that particular, even if the revenue was to profit leſs by a lottery than it did at preſent. He therefore wiſhed to know whether the next lottery was to be drawn in the ſame manner as the other lottery.

The Chancellor of the Exchequer ſaid, that it was endeavoured, as much as poſſible, by the laſt regulation, to prevent the evil which had generally attended the lottery; and he had reaſon to hope that, from the vigilance of magiſtrates, ſome of the evil had been diminiſhed, although he feared there was a good deal ſtill remaining. But he had not been able to make any further regulation in that reſpect in the lottery of the preſent year.

Mr. William Smith thought it unneceſſary to ſtate any further reaſons for oppoſition. He could not, however, avoid one obſervation, which was, that that Convention, which all had ſo much reviled, reprobated lotteries, and aboliſhed them as highly injurious to the morals of the people.

The report of the Committee was ordered to be made on Monday the 31ſt.

VOLUNTEER CORPS.

The Bill for augmenting the force of the kingdom, by the addition of corps to be raiſed in the various towns, counties, &c. for their reſpective defence, was upon motion of *the Chancellor of the Exchequer* read a ſecond time. Upon the motion for its being committed,

Mr. Fox wiſhed to call the attention of the miniſter, and the Houſe, to the inaccuracy with which certain important parts of it were worded, and which, from the ambiguity of expreſſion, appeared to him to require amendment. In the Militia Bill there was an ambiguity in the terms *imminent danger*, under cover of which, according to his ideas, the militia force was rendered liable to be called out upon looſer grounds than what were originally intended; in like manner in the preſent, the term *appearance* of danger, which was ſubſtituted in the ſtead of the words *imminent danger*, was equally exceptionable, as being equally looſe. Indeed, the meaning of the words was little different; but when he conſidered to how much greater length the one might be extended than the other, he thought the Houſe ſhould be cautious how they uſed words that might convey greater power to miniſters and the executive government than was neceſſary. He therefore wiſhed, that the words "imminent danger" were ſubſtituted.

The Chancellor of the Exchequer conceived it to be abſolutely neceſſary to uſe ſome ſuch term, as it certainly could not be intended

intended to confine the calling of the force out, to actual invaſion; but, as he had ſtated on a former night, it might be equally beneficial upon any proſpect of danger to make a general move, ſo that the more inland force ſhould be brought nearer to the coaſt. As to the conditions under which thoſe corps would be ſubject to march, and as ſuch liable to military law, that would in a great meaſure depend upon the terms upon which individual corps ſhould agree to embody themſelves. He thought no words could with ſuch ſtrict propriety be uſed.

Mr. Sheridan apprehended that, as the Bill now ſtood, under the words "*appearance of invaſion*," all the troops the Bill legalized would be liable to be called out almoſt on any pretence. He thought that this might deter many perſons from enrolling themſelves, and therefore might defeat the real good purpoſes of the Bill, becauſe there was no attention paid in the Bill to particular ſtipulations with individual corps as to the terms upon which they would be ſubject to military law; but by the general terms, all would be equally bound to march, when called upon; and thus all would be equally ſubject to military law. The miniſter had profeſſed, in framing this Bill, to take a ſimilar one, adopted at the cloſe of the laſt war, for his model; and he had done ſo, except in one amendment, which, in his opinion, would render the whole Bill in a great degree nugatory. By the former Bill, the force was not to be called forth but in time of actual invaſion; and that was a condition to which all muſt have ſubſcribed, whether the Bill exiſted or not. But now he apprehended few would be found willing or ready to enroll themſelves, becauſe liable to be put under the pains and penalties of martial law. What was meant by the appearance of invaſion? There was at preſent the appearance of invaſion from the King's ſpeech: The probability of an invaſion was a very different thing, and on which he confeſſed he had no alarming apprehenſions. But he was afraid that this vague expreſſion, "the appearance of an invaſion," would ſtand in the way of the voluntary ſervice which the Chancellor of the Exchequer profeſſed, by this Bill, to endeavour to encourage, becauſe it went to the ſubjecting men to military diſcipline unneceſſarily, and on uncertain grounds. Mr. Sheridan apprehended that by this Bill all the fencible s, or volunteer corps, might be ſubjected to military diſcipline, for the whole remainder of the war, if any Lord Lieutenant or Sheriff of a county ſhould happen to call them out once to ſuppreſs any internal tumult or diſturbance. This, he feared, might operate to deter many from enliſting, who might enliſt if they were aſſured that they would not be under ſuch mili-

tary diſcipline previous to any invaſion or actual rebellion taking place.

The Chancellor of the Exchequer obſerved, that theſe perſons would not be ſubject to military diſcipline until they actually marched under arms: To this they did not render themſelves liable at the time of being enrolled, but it was to be ſtated to them before they actually marched; and then being ſubject to military law, was only to be the conſequence of a ſpecific agreement entered into by themſelves. This was provided in the Bill; and he hoped the Hon. Gentleman, when he came to employ his ingenuity on this ſubject again, would not do it to excite any alarm in the public mind, and produce an effect which might tend to prevent any perſons from enrolling in this corps for aſſiſtance in our internal defence: He hoped, in future, that Gentleman would employ his ingenuity rather to remove than to infuſe doubts, that muſt neceſſarily operate to the prejudice of the public intereſt.

Mr. Sheridan ſaid, that his object and his wiſh was to deal fairly with the people of this country, by telling them what the real ſituation was in which they were to be placed. Ingenuity, he had no doubt, they would naturally enough expect from the Chancellor of the Exchequer, and he could ſupply them copiouſly with that article; but what they would chiefly require was a little plain dealing.

The Bill was ordered to be committed for Monday the 31ſt.

PRODUCTION OF PAPERS.

Mr. Taylor aſked the Chancellor of the Exchequer, at what time the ſalary of Sir Gilbert Elliot ceaſed as Commiſſioner of Toulon?

The Chancellor of the Exchequer ſaid, he could not tell at what time the ſalary ceaſed, becauſe that Honourable Baronet at this moment, although not at Toulon, held a commiſſion in his Majeſty's ſervice of a very important nature, and for which he received his ſalary.

Mr. Taylor ſaid, he was really obliged to the miniſter for this ingenuous anſwer.

Mr. Grey reminded the Houſe, that a motion ſtood for Thurſday the 3d of April, upon the ſubject of the war, and there lay on the table a liſt of the killed and wounded in the laſt campaign; he conceived therefore it would much facilitate the diſcuſſion, if the ſaid liſt were made as public as poſſible; for which purpoſe, he moved, "that the liſt be printed for the "uſe of the Members." He ſaid, he alſo intended to move for a liſt of the ſtores, &c. loſt in our attack upon Dunkirk; and alſo for the returns of the killed, wounded, &c. as publiſhed in the Gazette.

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The Chancellor of the Exchequer oppoſed theſe propoſitions as improper. The printing the liſt on the table could, he ſaid, anſwer no good purpoſe, becauſe it was not ſo voluminous but that any Gentleman might quickly make himſelf maſter of it. With reſpect to the other papers, he ſhould oppoſe their production, inaſmuch as it was obviouſly improper to make public any particular loſs, unleſs that loſs could be imputed to ſome particular miſconduct, of ſufficient magnitude and importance to call for cenſure; and the Houſe had already decided to the contrary upon the ſubject of Dunkirk.

Mr. Fox thought, that the Right Hon. Gentleman's ſyſtem, as to the production of official papers, had been carried to a further extent in this than in any former ſeſſion. He would be underſtood to ſpeak of the accounts of loſt ſtores. Was it not proper that the Houſe, previouſly to conſidering a queſtion relative to the conduct of the war, ſhould be informed of its loſſes? It could not be urged, upon the preſent motion, that a compliance with it would afford information to the enemy. Could any thing more materially relate to a queſtion of good conduct, or miſconduct, than accounts of loſſes? It had, Mr. Fox ſaid, been the univerſal practice in the good times of the conſtitution, to afford the Houſe all the information which could be given without danger, or prejudice to the public intereſt; and he hoped, that the Right Hon. Gentleman, upon this occaſion, would depart from his extreme ſyſtem, which was contradictory to many of the moſt eſſential powers of Parliament. With regard to the motion for printing the returns already upon the table, his reaſon for wiſhing that to be carried was plainly, that it might be ſeen whether the loſſes mentioned in them correſponded with the ſtatement of thoſe loſſes publiſhed in the Gazette.

Mr. Grey remarked, that if the miniſter perſiſted in refuſing, it was in vain for him to perſiſt in aſking; he therefore agreed to withdraw his motion for the preſent; but he gave notice that he would renew it on ſome future day.

VOLUNTARY SUBSCRIPTIONS AND BENEVOLENCES.

Mr. Sheridan roſe to make his motion upon this important ſubject, agreeable to the notice he had given on a former day. He ſaid, that, conſidering his extreme hoarſeneſs, he ſhould have occaſion to claim all their indulgence and attention, in order to render himſelf intelligible to their underſtandings, during the long detail of argument he ſhould have to produce. The propoſition he meant to ſubmit to their deciſion and judgment was ſo congenial with the ſpirit of the conſtitution, ſo neceſſary to its maintenance in the purity in which it had been handed down to us by our anceſtors, ſo eſ-

ſential to the ſecurity of the people, and to the very exiſtence of Parliament, that he flattered himſelf it needed only to be heard to be generally received and adopted. The demand recently made by Government, and addreſſed in the circular letter of the Secretary of State to the different Lords Lieutenants, was of the utmoſt importance conſidered in every light in which it could be poſſibly viewed; and its importance was increaſed by the circumſtances by which it was accompanied. The Right Hon. Gentleman had choſen to perſiſt in the meaſure which he had adopted in ſuch a way, as to make it evident, that he rather acted for the ſake of eſtabliſhing the principle, than from any motive of hope of immediate advantage to the State. He would have been happy, Mr. Sheridan ſaid, to have put off the diſcuſſion, if, even after the firſt mention of it in that Houſe, the Right Hon. Gentleman had thought proper to come forward in a fair and conſtitutional mode, to apply for a Parliamentary ſanction of this moſt alarming meaſure. But it ſeemed, through the whole of his recent conduct, to be his firſt deſire, in the oſtentation of his power, to increaſe the prerogative of the Crown; and in the choice of means to give the preference uniformly to that which contradicted ſome eſtabliſhed uſage, violated ſome fundamental principle, or demoliſhed ſome conſtitutional guard or fence. This had been the caſe in the circumſtance of landing foreign troops in this country. Had he choſen to apply to Parliament for their ſanction, no one would ſay that a doubt would have ariſen, or the ſmalleſt heſitation have taken place, about granting an immediate ſanction to their entry into the kingdom. But the Right Hon. Gentleman had diſdained all ſuch application. Anxious to eſtabliſh the precedent that the Crown could, at its pleaſure, introduce any number of foreign troops into this country, he diſdained all indemnity, and reſted it upon prerogative. In the ſame manner, with a Parliament ſitting, a Parliament certainly not indiſpoſed to comply with any meaſure propoſed by the Right Hon. Gentleman, inſtead of coming down to ſtate and deſire the further aids that might be neceſſary for the defence of the country, an application was made, through the Secretary of State, to the Lords Lieutenants of Counties, to inſtigate a ſubſcription, and levy a ſum of money, among the people, not ſubject to the controul of Parliament, nor even within its cognizance. When this extraordinary proceeding was noticed in Parliament, it was thought proper at length to bring down a Meſſage from the Crown. He even then hoped, Mr. Sheridan ſaid, that in that Meſſage words would have been introduced, and a proceeding taken upon it, which would have made his preſent motion

motion unneceſſary. He hoped that the Right Hon. Gentleman would have felt it to be his duty to call upon Parliament to authoriſe the proceeding; and even this, though a tardy and ungraceful mode of conduct, he ſhould have been happy to have ſeen. Had that been the caſe, he ſhould not have thought it neceſſary to ſubmit to the Houſe the motion which he held in his hand. In the Meſſage from the Crown, however, not the ſlighteſt application was made for any authority or ſanction of the proceeding. All that was done was, to bring in a Bill to put under certain regulations the men to be levied by the money ſo to be ſubſcribed.

Mr. Sheridan ſaid, the queſtion for the Houſe to conſider was, Whether the people had a right to offer and to give, and whether the Crown had a right to receive, a ſupply or ſubſcription for public purpoſes, without the knowledge and conſent of Parliament? This queſtion involved in it no leſs than, Whether the Crown could maintain a force, and carry on the executive government of the country, independent of Parliament? To which he meant to add, that the requiſition made by miniſters for that purpoſe added conſiderably to the illegality of the whole proceeding. He averred, and ſhould endeavour to prove, 1ſt, That it was againſt the reaſon of things, and againſt the firſt principles of a mixed government, and of a repreſentative ſyſtem, and conſequently not reconcilable either with the ſpirit or the letter of our conſtitution, for the Crown to poſſeſs any ſuch power. 2dly, That it was not conſiſtent with the ancient and ſound uſages of the country, conformable to the beſt authorities, or to be reconciled to the cuſtom and practice of the kingdom in good times. And, 3dly, That even if it were conſiſtent with the uſages, and might be countenanced by authorities, that it was not a wiſe courſe, nor fit to be reſorted to as a ſource of revenue for the ſecurity of the kingdom. Theſe doctrines were all clear to his mind; but if he ſhould be able to make any one of them obvious and manifeſt to the Houſe, it was enough for the purpoſe of his motion.

As to the firſt, *videlicet*, that it was againſt the reaſon of things that ſuch a power ſhould exiſt in the Crown, he would maintain, that there could be no true ſecurity for public liberty except on this ground, that the Crown can neither take nor uſe property to any public purpoſe without the previous conſent of Parliament. It was not the boaſt of Engliſhmen merely that property was ſecured to them, but that no property, however it might come into the hands of the Crown, could be applied to any poſſible purpoſe, except ſuch as had been previouſly authoriſed by Parliament. It was not then

ſimply

ſimply the boaſt of our freedom, and the baſis of our ſecurity, that the Crown could not take money out of our pockets, but that the people cannot, by any act of indiſcreet benevolence, preſent their money to the Crown otherways than through the channel of Parliament. It it were otherwiſe, and that grand juries, corporate bodies, county meetings, and other aſſemblies, could, at their pleaſure, collect, ſubſcribe, and preſent ſums of money to the Crown, to be uſed at pleaſure, Parliament muſt become from that moment uſeleſs and unneceſſary; the King would have the means of employing this money to purpoſes not previouſly explained; it being the peculiar office and duty of Parliament to ſquare and adapt the grant of money to the ſpecial purpoſe, and to ſee that no ſums whatever were put into the diſpoſal of the executive government, which were not to be appropriated to a purpoſe that the Houſe of Commons had previouſly judged neceſſary. If grand juries and county meetings could not, with ſafety to the conſtitution, grant ſuch ſums of their own motion, how much more alarming muſt it be, if a ſupply of this kind were to be demanded of them by the Crown, and to be granted upon the authority of that demand? What muſt be the ſituation of the country, if the Crown could at pleaſure appeal, not to Parliament, but to knots and ſelected ſocieties of individuals, and procure ſupplies for purpoſes unknown and unexplained to the legal repreſentatives of the people? Were it not poſſible that a moment of deluſion might ariſe, when, by exerting all the influence of the Crown, and adding to it all the quackery of cant words, and of inflammatory appeals to their paſſions, the people might be brought into a temper to grant ſupplies, even when the Parliament had refuſed them? Mr. Sheridan ſaid, he would mention an inſtance within the recollection of every Gentleman preſent: In the year 1784, many perſons were of opinion, that the Houſe of Commons ſhould have refuſed the ſupplies, as the beſt means of reſiſting the unconſtitutional attack that was then made on the privileges of the Houſe. He, for one, was againſt the meaſure; but it certainly would not be denied, that if at that time it had been adopted, the people of the kingdom were, by the artful deluſion, and cry of a fourth eſtate, and of a monſtrous coalition, brought into a temper to have granted a ſupply to the Crown, and that in a way to have made all the functions and purpoſes of Parliament unneceſſary to the Crown, and conſequently uſeleſs to the people. The Eaſt India Company would, no doubt, have been ready to come forward with their 500,000l. or 1,000,000l. and a ſum at leaſt equal to that annual grant, which the wiſdom of their anceſtors had thought fit to reſerve in the hands

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of Parliament as the beſt ſecurity for all their other privileges. They would have ſubſcribed againſt all that was great and glorious, againſt the perſon who was now at the head of the law, and againſt thoſe who had thought that nothing could preſerve the liberties of this kingdom inviolate, but involving the nation in the preſent moſt bleſſed and advantageous war. Suppoſe Parliament poſſeſſed of all other powers of legiſlation, but that the one power of granting the public money were to remain veſted in the People themſelves, who were in their own perſons to vote it in their different aſſemblies, to aſſeſs themſelves in their reſpective counties, this would appear, at firſt ſight, certainly not ſo abſurd or improper a proviſion, nor one from which many or great evils were by any means to be apprehended. But was there one man who was ſo ſuperficial or ignorant an obſerver, as not to ſee, that if this were the caſe, the whole conſtitution would be overturned, and Parliament made a mere mockery, as the King would be rendered independent of that watchful body? Of what uſe was it that they were in poſſeſſion of what might be termed the ſtrong box of the nation? Of what uſe, but that the King might be under the neceſſity of governing by his Parliament, and that he might be without money but through the grants of Parliament? The King was certainly not bound to call the Parliament together, nor had they any ſurety of exiſtence but where the Crown neglected to aſſemble them for three years. What tie then had they to inſure their being frequently brought together, but the excluſive right and power of granting money? Would the Houſe ſtand by tamely, and ſee the great and ſtrong fence of all their liberties, the power of the purſe, invaded in the ſlighteſt manner? And would they ſay that we had any ſenſible practicable ſecurity for any one privilege, if the Crown had reſources independent of the People? Under this principle it was, that they held that the King could have no power independent of them; that they were conſtitutionally jealous of every ſtep taken, and uncourtier-like in their duty, that they ſaid to Majeſty, "We know you would ſeize on power if it came within your graſp; but, as it is our duty, we will take care to prevent you."

The queſtion might be aſked, Whether the Crown could, for any public purpoſe, make uſe of money derived from private reſources? He had no heſitation in ſaying, that it would amount to an overturning of the whole conſtitution, if the King could employ any funds to any purpoſe whatever not authoriſed by Parliament. He went to the whole extent of this principle. Suppoſing, for the ſake of argument, that the Throne of England had devolved to the Houſe of Bourbon,

would it have been a ſufficient ſecurity to Engliſhmen, that the King of Great Britain, being alſo the King of France, could not apply the immenſe ſums which he might have drawn from that flouriſhing kingdom, to any purpoſe in England, unauthoriſed by the Parliament of England? Would it have been ſufficient for them to ſay, "our liberties are ſafe becauſe you cannot put your hands into our pockets?" No: It was ſeen and felt, that there could be no ſecurity for the liberties of England, if the King of England could draw reſources from another kingdom, of ſo immenſe a kind as to render him ſuperior to the power of the purſe in the hands of a Britiſh Parliament. They had not the ſame fear with reſpect to the Elector of Hanover, becauſe no reſources could be drawn from that Electorate dangerous to Britiſh liberty. The principle, however, had ever been preſent to the minds of thinking men; and both in commuting the hereditary revenue which the King drew from the colonies, and alſo in ſettling the conſtitution of Ireland, eſpecial care had been taken that the Crown ſhould not have the means of drawing into its hands ſums that might by their application be uſed injuriouſly to the country. During the American war, thoſe who were moſt ſtrenuous in the ſupport of it, contended for the ſupremacy of the Britiſh Parliament, upon the ground, that it was neceſſary to prevent the King having a reſource whence he might draw ſupplies independent of his Parliament; and this argument was neither undeſerving of ſerious conſideration, nor devoid of weight. With regard to the extent to which this principle of ſupplies, independent of Parliament, being legal, might be carried, it was worth while to inquire, and there were authorities upon it which muſt have conſiderable weight. That which might at firſt be voluntary, would at laſt be exacted as a matter of right. Indeed, he denied that there could exiſt any ſuch thing as pure voluntary ſubſcriptions in the fair and true ſenſe of the term. If it was a meaſure ſo highly objectionable, and ſo ſtrongly reſiſted in old times, what were we to ſay, when we looked at the increaſing influence of the prerogative down to the preſent day? Look at the long train of cuſtom-houſe officers, exciſemen, inn-keepers depending on their licences, &c. &c. ſcattered over the whole kingdom, and who could ſay that a ſingle guinea was ſubſcribed from a principle purely voluntary? He would venture to ſay, that not one in twenty was a free voluntary ſubſcriber.

The extent to which the principle might be driven, was pretty well exemplified in the late meeting for Berwick, a meeting which he did not heſitate to pronounce illegal, and which could only be aggravated by its being founded upon an appli-

application from the miniſter. At this meeting they had reſolved to raiſe two troops of horſe, of fifty men each, for their defence, which ſhould be at the diſpoſal of the Crown, to go to any part of Great Britain. To defray this expence, they reſolved upon a kind of land-tax, by which they impoſed a levy on all heritors, amounting to eight months of their annual ceſſment. Regretting, however, that they could not at once extend this to the property of thoſe who were abſent, they drew up a circular letter to all abſent heritors, ſigned by their chairman, Robert Hay, calling upon them to ſubſcribe this eight months' ceſs, and intimating that it would be a mark of their loyalty and attachment to the King. Nothing could be more illegal than this; it was only aggravated by its being done on an application from the Secretary of State. Here was money raiſed, and money applied to the levying of troops, and all this without the knowledge or conſent of Parliament, and thoſe who did not chuſe to ſubſcribe were to be held out as diſloyal and diſaffected ſubjects of the King. The only plea in favour of this proceeding, that could be urged, was, that though the money was ſubſcribed, yet it was not to be applied in any other manner than by conſent of Parliament. He called upon any one to produce a ſingle law by which it could be proved, that where it was lawful for the People, on the one hand, to ſubſcribe, and for the Crown, on the other, to receive, it was equally lawful for Parliament to direct the application of it. Suppoſe, however, the legality of ſuch interference to be demonſtrable, might it not be rendered nugatory, by the danger of waiting for ſuch an application in the preſſure of preſent and imminent difficulties? Thus, on the ſubject of landing foreign troops, a nice diſtinction was to be made, and it was contended that there exiſted no danger, becauſe miniſters, in doing ſo, were at the ſame time bound to give notice thereof to the Houſe. Neither in that, nor the preſent inſtance, could any law, bearing ſuch conſtruction or neceſſity, be produced; on the contrary, if it was legal for the King to accept, it was equally legal for him to apply the benevolences which might be granted. But he aſſerted that there was nothing contained in the ſtatutes to juſtify any other grants than thoſe voted by Parliament, but that the direct contrary was the clear inference to be deduced from them all; and to prove his aſſertion, he took a review of the different periods in which the buſineſs of benevolences was agitated.

Mr. Sheridan then went through the hiſtory of benevolences, as they appear on our Engliſh records, from their firſt commencement. The firſt inſtance we had of benevolences was in the time of Edward IV. The next was in the caſe of

Pym in the 4th of James I. upon his reſiſting the payment of certain duties levied without the conſent of Parliament. The arguments uſed upon this occaſion fully eſtabliſhed the point, though not the principal one in diſcuſſion, that the King had no right to ſuch means of ſupport. After this follows the Petition of Right in 1629, during the reign of Charles the Firſt. It was true that this only marked compulſory benevolences, but that was becauſe that was the evil particularly felt at the time, and to remedy which they, of that day, particularly turned their minds, and bent their attention. Compulſory gifts were one offence; and gifts, however free, were another, and no leſs a breach of the privileges of that Houſe than the other; and, therefore, although he might ſeem to jeſt the other day, he was perfectly juſtifiable, when he ſaid, the Serjeant at Arms ought to be ſent to take up the Chairman who ſhould ſubſcribe to the reſolutions of a meeting violating thoſe privileges by voting a ſupply. The next caſe in point of order, after the Petition of Right, was the caſe in 1615, of Mr. Oliver St. John, who was proſecuted in the Court of Star Chamber for a publication againſt the legality of benevolences. It would be ſaving the Houſe much trouble if he were to quote ſome paſſages out of that publication. The caſe was this: The miniſter of the day having occaſion for aid, aſked benevolences preciſely in the preſent mode, and not by that uſually practiſed of old, namely, by commiſſion under the royal ſeal. Mr. St. John, being convinced of the illegality of ſuch a meaſure, wrote a letter to the Mayor of Marlborough, dated 15th of April 1615. In this letter Mr. Oliver St. John ſtated the objections which he had to this kind of benevolence. Firſt, he ſaid, "It was not only without, but againſt reaſon, that the Commons, in their ſeveral and particulars, ſhould be relievers or ſuppliers of his Majeſty's wants, who neither knew his wants, nor the ſums that may be raiſed to ſupply them. Secondly, it was againſt reaſon, that the particular and ſeveral Commons diſtracted, ſhould oppoſe their judgment and diſcretion to the judgment and diſcretion of the wiſdom of the land aſſembled in Parliament, who had there denied any ſuch aid." Mr. St. John further ſaid, "That ſome for fear, ſome in pride, ſome to pleaſe others, would enter into this contribution; and he ſtated it to be againſt the conſtitution, and a violation of the great and ſolemn oath taken by the King at his coronation, for the maintaining of the laws, liberties, and cuſtoms, of this noble realm." For this letter of Mr. Oliver St. John's, he was proſecuted in the Star Chamber, as he had before ſtated, and his ſentence was, to be fined 5000l. and to be impriſoned for life.

The great Sir Francis Bacon was then Attorney-General, and

and the ſpeech that he made upon that trial was moſt memorable. He defended the meaſure of benevolences to the Crown by moſt extraordinary arguments. "God forbid (ſaid Sir Francis) any body ſhould be ſo wretched as to think that the obligation of love and duty from the ſubject to the King ſhould be joint, and not ſeveral. No, my Lords, it is both. The ſubject petitioneth to the King in Parliament: He petitioneth likewiſe out of Parliament. The King, on the other ſide, gives graces to the ſubject in Parliament; he gives them likewiſe, and poureth them upon his people out of Parliament: And ſo, no doubt, the ſubject may give to the King in Parliament and out of Parliament." Sir Francis remarked, "That it was thought fit, by the Lords in Council, to make a proof of the love and attachment of the country; and they deviſed and directed letters unto the ſheriffs and juſtices, declaring what had been done here in London, and wiſhing that the country might be moved, eſpecially men of value; and Sir Francis, in the courſe of his argument, defended the meaſure, becauſe it was to work upon example, as a thing not deviſed, or projected, or required, no, not ſo much as recommended, until many, that were never moved nor dealt with *ex mero motu*, had freely and frankly ſent in their preſents; ſo that the letters were rather like letters of news, of what was done at London, than otherwiſe; and we know *exempla ducunt non trahunt*—examples do but lead, they do not draw nor drive."

The Letter of the Right Honourable Henry Dundas, Mr. Sheridan ſaid, was exactly on the model of the Letter of the the Council of James I. Sir Francis's whole argument went upon the idea that this benevolence was not an exaction called a benevolence, and which the Duke of Buckingham ſpoke of in his oration to the city. His definition of a benevolence was extremely curious: He defined it to be, "not what the ſubject of his good will would give, but what the King of his good will would take." And after theſe valuable arguments in favour of benevolences, Sir Francis ran through three pages of panegyric on his Majeſty, as the greateſt warrior, fineſt writer, moſt ſublime philoſopher, moſt Chriſtian monarch, and the handſomeſt man in Europe: And upon theſe arguments, as he ſaid, the Star Chamber fined Mr. Oliver St. John 5000l. and condemned him to impriſonment during the King's pleaſure. If the Star Chamber was revived in this country, or if the Scotch Law, or rather the practice of the Scotch Law, were introduced into this country, then perhaps this ſyſtem of benevolences would have greater ſucceſs than they were likely to have, as the example of Mr. Oliver St. John might be revived. Which of the two the Right Honourable and Learned Gentleman would prefer to introduce, it was not poſſible for him to conjecture.

One material point for conſideration, in his opinion, Mr. Sheridan ſaid, was the ſtatute of the 13th of Charles II. which in reality ſettled the point then under the diſcuſſion of the Houſe, for that ſtatute in its preamble declared, all voluntary aids and benevolences from the People to the Crown to be illegal; but in conſequence of the ſudden and preſſing neceſſity of the King, it did legalize a benevolence on that one occaſion. This proved inconteſtably, that the doctrines of the legality of voluntary ſubſcriptions were ill founded, by admitting of voluntary gifts from the immediate neceſſity of the caſe; becauſe if they were legal, then was the Act authoriſing them uſeleſs. So careful, indeed, was the Act in allowing the exerciſe of the privilege admitted, that it limited and reſtrained the amount to which individuals ſhould be permitted to ſubſcribe, confining Peers to 400l. and Commoners to half that ſum. If therefore it was legal that we can give what we pleaſe, why thus limit our generoſity, but on the principle, that to ſuffer the Crown to obtain unlimited poſſeſſions was a dangerous and improvident meaſure? Nor were the limitations of the Bill confined to the amount alone; the time during which it ſhould laſt was likewiſe fixed. It was declared in the body of it, that no commiſſion for extorting money ſhould iſſue as heretofore, or any aid be drawn from the people but through the medium of Parliament; and laſtly there was a ſpecial proviſion in that ſtatute, that it ſhould never be referred to as a precedent on any future occaſion. By this Petition it was confirmed, that no man ſhould, in future, be compelled to yield any gift, loan, or benevolence, without the conſent of Parliament, nor be confined, or moleſted, or diſquieted in caſe of refuſal. The application from the Crown for money is an offence of one nature, and the contributions, voluntary and *bonâ fide* free offerings on the part of the people, is another. This ſtatute of Charles the IId was the law to this day. No one proceeding, in the ſhape of a law, had taken place ſince that time; for the Bill of Rights confirmed by inference the 13th of Charles II. though, like the Petition of Right, it confined itſelf to benevolences at the requiſition of the Crown. Mr. Sheridan ſaid, he could not conceive what poſſible caſe they could ground themſelves upon ſince the Revolution, what authorities they meant to bring forward, or upon what practice it was their intention to juſtify their proceeding.

The Right Honourable Gentleman had thrown out an inſinuation that he had authorities: It would be found with what reaſon he had ventured to make this aſſertion. He would take upon him to ſay, that in no one inſtance was there a caſe to be found in any thing ſimilar to the preſent. The example of 1745, when a rebellion was raging in the country, and Parliamen

liament was not ſitting, would ſurely not be mentioned as a pregnant example. It was one of thoſe caſes of extreme neceſſity which ſuperſeded all the uſual forms, as well as all law: It was a caſe that ſtruck at the vitals of the Conſtitution, when Government would not have merely been juſtified in taking the aids that were offered, but when they would have been juſtified if they had gone even to greater lengths, and had by the proclamation of martial law, put the whole body of the people under arms, and removed the property of individuals from the reach of the common enemy. It was not from a caſe of ſuch neceſſity that they would argue therefore; nor did he conceive that the Right Honourable Gentleman would chooſe the caſe of 1756 as the ground of his juſtification. At that time bounties were offered to ſuch ſeamen as ſhould enter as volunteers, by the city of London and other great bodies, and the Earl of Chatham had written a letter to the city of London on the occaſion. But would the Earl of Chatham, if he were now alive, adopt, or even countenance the unprecedented meaſure of his ſon? The caſe of offering bounties, in addition to the bounties given by the Crown, was very different from benevolences to the Crown. Thoſe bounties could not be conſidered as money given to the King, but as an additional reward given to individuals, already known to the Conſtitution as a body; as if in the late war, the merchants were to reward the gallant exertions of their fleet by a ſword to the officer, or money to the men; would this be a ſupply? or rather a ſpecific gift to ſpecific individuals, which was to be conſidered rather as an encroachment upon than extenſion of the powers of the Crown. The money was not given to the King; nor did it come in any ſhape or manner into the hands of Government: It was to be given ſimply to thoſe individuals, who, in conſequence of an Act of Parliament, entered into his Majeſty's ſervice; and who had already received the ſum directed by Parliament. It was a meaſure which countenanced a meaſure of Parliament, but which did not go farther; it did not add one man to the grant of Parliament, but it ſimply held forth additional inducements to the country to enter into the ſervice, deemed to be neceſſary by the Parliament.

The next inſtance, Mr. Sheridan ſaid, was that of 1778, and this was of the ſame ſort with the former. Parliament was adjourned for the purpoſe, as it was ſaid, of procuring the additional aids at a time when they were not ſitting, and when conſequently they ſhould be free from the animadverſions that they dreaded. During this adjournment, accidental or contrived, certain perſons in the city of London and elſewhere, did reſolve to raiſe ſums, and to put them under the diſpoſal of a committee, for

for the purpoſe of buying clothing, &c. In this, however, the inſtance differed from the preſent; it was not done at the requiſition of the Crown; his Majeſty's miniſters were not ſeen in it; and that ſurely was not one of the caſes in which the miniſters were to find their great authorities. Great authorities were to be found at that time againſt the meaſure. A Right Honourable Gentleman, then Member for Briſtol (Mr. Burke), ſpoke with his uſual ſplendour againſt a meaſure that ſtruck, as he ſaid, at the very foundation of public ſecurity.

Another great authority who countenanced the Earl of Chatham in the caſe of 1756, and whom the Right Honourable Gentleman would not, he conceived, deſpiſe upon that account, objected to the meaſure, with that warm zeal for the conſtitution which had diſtinguiſhed his honourable life (Earl Camden). The authority of Mr. Dunning, and of many other moſt eminent men, was againſt his Majeſty's miniſters on a meaſure that had not half the aggravation of the preſent.

With regard to the caſe of 1782, at which the Right Honourable Gentleman ſeemed to glance on a former night, and which he meant to inſinuate was a proof that his Right Honourable Friend had then countenanced the principle of the meaſure, was in his opinion totally inapplicable: It was, in reality, a meaſure that might have been deemed, both on account of the time at which it came, and on account of its own nature, to be highly democratic; for immediately after a letter of the Duke of Richmond, and of his motion for univerſal ſuffrage, it was a recommendation to the people to take arms for their own mutual defence; but not putting them into the hands of the Crown, it was ſtating what was undoubtedly conſtitutional, that for mutual defence, and for general ſecurity, it would be wiſe and prudent for every man to be armed; but it did not recommend that levies ſhould be made for the Crown, or that money ſhould be put into the diſpoſal of the Crown. Mr. Sheridan ſaid, he had thus gone through the precedents in the hiſtory of England; and he concluded from them, that the meaſure was clearly hoſtile both to the ſpirit of the conſtitution, and to all the ſound uſages of the country.

His third propoſition, that, even if it could be reconciled with the conſtitution, and with cuſtom, it was ſtill a meaſure unwiſe, futile, and unfit to be reſorted to, would ſoon receive a better illuſtration than any that it could derive from his arguments; for it would very ſhortly be ſeen what would be the reſult of the preſent attempt; there never having been a moment ſo favourable for the experiment as the preſent. The country had all the motives to a grand diſplay of benevolence that any poſſible

poſſible concurrence of events could engender. The expences of the preſent year would be at leaſt five and thirty millions ſterling for the payment of our hereditary debts, and for the maintenance of this moſt glorious war: A war eſſential to ſo many grand objects, that it was almoſt impoſſible to enumerate them; a war for the ſalvation of the Britiſh Conſtitution, and for the ſafety of Kings; a war for the preſervation of the Chriſtian religion; a war for the ſake of privileges and diſtinctions; a war for the reſtitution and eſtabliſhment of human order; a war for ſecuring the ſafety of this country, and the ſafety of other countries; a war, in ſhort, in which all the emotions of the ſoul were to be rouſed, and in which, if ever it could be expected to draw a great ſum from the ſource of benevolence, the exertion of the people on the preſent occaſion was to demonſtrate the extent of this ſpecies of reſource; for if the people were only to advance their money upon all the inducements that were held out, and ſubſcribed each but one pound for kings, one pound for their country, one pound for their conſtitution, one pound for religion, one pound for humanity, one pound for civilized ſociety, &c. &c. what muſt not be expected from a generous and opulent people ſo moved? Certainly that the whole debt muſt be quickly wiped off. He would be bold to foretel, however, that it would be treated with merited diſdain, and that it would be as unproductive as it would be oppreſſive, litigious, and repugnant. Nothing could be more idle at the ſame time than to call it voluntary.

When the enormous influence of the Crown was conſidered, running through all its channels of patronage, terror, the revenue laws, the chain of dependence, and all the varieties of aſpect, under which, to the moſt diſtant parts of the kingdom, it entered and pervaded every place, Mr. Sheridan ſaid, it would be impoſſible for men to act from their own motion, or to reſiſt the torrent of this prevailing power. An officer of the Crown, with his colleagues, would be deprived of their places if they did not do it. All under the frown and laſh of the executive government muſt gratefully receive it, or reſign their employments. It was eſpouſed and encouraged only by the enormous influence of the Crown, and was apparently invented as the teſt and pledge of their affection. Nor could it be conſidered as the moſt equal mode, ſince ſome from oſtentation, and more from intereſt in the view of deriving advantage from the ſubſcriptions to be raiſed by getting rank for their relations, or contracts, or agencies, would be induced to ſubſcribe, not what they could afford, not what could be conſidered as a genuine reſource, but as the aggregate of pride

and mercenary ſpirit for a time, and which could not be reſorted to often, without fallacy and defeat.

The laſt objection Mr. Sheridan ſtated to the meaſure, was the inequality with which the levy would proceed, ſome giving too much, as others would give too little; for he did not ſuppoſe we were to be compelled into it, after the manner of the old ſtory, by which thoſe who lived ſaving were compelled to give, becauſe they were likely to repair it; and thoſe who lived freely were equally obliged to contribute, becauſe it was evident that they could afford it. It was one of thoſe inſtances in which the Right Honourable Gentleman mimicked the Jacobins, as indeed he mimicked the Jacobins in every thing. Inſtead of diſplaying a manly and honourable confidence in the loyalty and attachment of the people of this country to the perſon of the King, and to the ſyſtem of the Conſtitution, the government ſet up a dark, gloomy, Jacobinic ſyſtem of inquiſition, deſtructive of the concord, comfort, and happineſs of ſociety: Inſtead of oppoſing to the ſanguinary example of the Jacobins, and of their horrid puniſhments, the example of a mild adminiſtration of criminal juſtice, and ſhewing, by the beneficence of our courts, the beauty and efficacy of a well-modelled and rational ſyſtem of freedom, we had ſtriven to imitate their conduct, by ſtraining our criminal laws beyond the example of all former times, the blackeſt in the annals of England, and ſhocking to the feelings of humanity, by puniſhments out of all proportion to the meaſure of the offence; and now, inſtead of oppoſing to their irregular, unſubſtantial, and inefficient ſchemes of finance, a ſyſtem of ſolid, equal, regular, and permanent revenue, we had adopted their very project, and graſped at a ſhewy but miſerable phantom, which would be found to elude our power, and to leave us in greater wretchedneſs and difficulty than ever. In every way in which he could view the ſubject, it was a meaſure calculated not merely to delude the Public for the time, and to be vexatious and oppreſſive as far as it went, but it appeared to have been adopted for no other purpoſe under Heaven, except to take advantage of the decay of all popular ſpirit for the eſtabliſhment of a principle ruinous to the liberties of the country. He ſhould conclude therefore, with moving, "That it is a dangerous "and unconſtitutional meaſure for the people of this country, "to make any loan, ſubſcription, or benevolence to the Crown, "to be uſed for any public purpoſe, without the previous "conſent of Parliament."

Mr. Grey ſeconded the motion.

The Attorney General declared himſelf to be of opinion, that nothing

nothing could be more eaſy than a refutation of all that had been advanced by the Honourable Mover. He profeſſed himſelf to be averſe to all abſtract queſtions. In 1788, no man had ſtruggled more than he did to reſiſt queſtions of that deſcription; and he had no heſitation in ſaying, that he would conſtantly reſiſt all abſtract queſtions on the conſtitution. Upon that principle it was, that a few days ſince he had treated the diſcuſſion on the propriety of landing the Heſſian troops in this country; and being fully convinced that the motion before the Houſe was of a ſimilar nature, he thought it his duty to give it his oppoſition, becauſe, in a conſtitutional point of view, it had no relation to the ſubject which was the pretext of diſcuſſion. He obſerved, that what had been done by his Majeſty's miniſters, was not only not repugnant to the well-known principles of the conſtitution, but was actually ſupported and confirmed by the ſpirit, the letter, the text, and the comment of every law that exiſted. When he heard it aſſerted that night, that voluntary ſubſcriptions, contributions, and benevolences, for purpoſes to be ſanctioned by Parliament, were illegal and unconſtitutional, he confeſſed his great aſtoniſhment and ſurpriſe. After theſe aſſertions had been ſo often repeated, he was extremely cautious not to ſtate a ſyllable upon the ſubject, till he had fully and completely ſatisfied himſelf that his opinion was warranted by law and the ſound principles of the conſtitution. When he recollected what had paſſed in the year 1782, and ſince that period; when he recollected what had been done in the year 1778, and the opinion of the great and illuſtrious character (Lord Camden) who took a particular and decided part in the proceedings of that period; when he recollected what had occurred in the year 1782, and the opinion of Lord Aſhburton, who was then one of the cabinet miniſters; when he recollected what had been tranſacted in the year 1759, from which period, and from all the other periods which he had mentioned, no human being could diſtinguiſh the proceedings that had taken place in the year 1794, on any ſolid, real, or ſubſtantial principle of diſcrimination (he defied the ingenuity of man to point out ſuch a diſtinction); when he recollected the opinion of that great, noble, and illuſtrious character (the late Lord Chatham) upon preciſely the ſame meaſure, to be an unparalleled panegyric upon the legal zeal, marked loyalty, and firm attachment of the ſubjects that had come forward with their voluntary contributions; when he recollected what had occurred in the year 1746, and the decided opinion delivered at that period, by that great, learned, and truly reſpectable character (Lord Hardwicke), who took occaſion, in

paſſing ſentence upon the rebel Lords, to declare that he held the oppoſite doctrine to be the height of *preſumption* and *ignorance*; and when he recollected, that, in confirmation and corroboration of this opinion, were to be added the clear and diſtinct ſentiments of the Twelve Judges of England, together with the ſentiments of the Maſter of the Rolls; he was aſtoniſhed and ſurpriſed beyond any thing that could poſſibly be imagined; nay, he was led to ſuppoſe that he had totally miſtaken the whole hiſtory of the country. The Honourable Gentleman conſidered the Petition of Right to be a very ſolemn declaration. And when he recollected that the celebrated Lord Coke had a hand in the compoſition of that Petition, and yet had left this caſe, as it was ſtated, totally unprovided for, it was a matter altogether aſtoniſhing, and utterly unaccountable. But he would refer all Gentlemen, who were doubtful on the ſubject, to the facts recorded in hiſtory.

He would firſt ſtate the facts on which it could be aſſerted that the queſtion aroſe; and, in the ſecond place, he would put it to the conſideration of Gentlemen, whether the propoſition that had been attempted to be made out by the Honourable Gentleman, could poſſibly ariſe out of the facts, or whether that Houſe could come to a reſolution, aye or no, upon it? A great deal had been ſaid on the memorandum of the miniſter ſent to the Lords Lieutenants of counties: On that paper he was ready to ſay that he had not been conſulted; if he had, he ſhould have told the miniſter—"Send it." If that paper was an improper one, then all Politicians, Parliament, Lawyers, Judges, and all bodies of men, from the earlieſt time down to the year 1782, had acted under a miſguided judgment; For be it recollected, that this memorandum, or paper, or let it be called any thing that Gentlemen might be pleaſed to call it, contained nothing but a ſketch of a plan, the whole meaſure of which was hereafter to be ſubmitted to Parliament, before any thing was even propoſed to be done upon it. And here he would ſet out with this point, as eſtabliſhed upon a principle not to be diſputed, that any man who aſked for a guinea's worth of labour of another, aſked for a guinea: No man would tell him, that he who aſked for the ſervice of a ſoldier, did not aſk for the value of that ſervice.

The plan ſuppoſed that corps were to be raiſed independent of the force, for the raiſing and maintaining of which Parliament was to paſs a vote. Then it was ſtated, that ſuch meaſure was illegal and unconſtitutional—And why? Becauſe a Bill was to be brought into that Houſe, very nearly ſimilar to, at leaſt with very little verbal difference from, a Bill that had been

been brought under the ſame circumſtances into the Houſe in the year 1782.

He would next proceed to argue upon the caſes that he had alluded to. He would not begin with caſes that occurred in the laſt century, but would commence with the lateſt precedents, ſomewhat inverting the order of arrangement followed by the Hon. Gentleman; and then ſhew, by retracing regularly the ſeveral proceedings, how the caſes grew out of, and in what manner they were independent of each other. In the year 1782, as he had before ſtated, with the Lords Camden and Shelburne in the Cabinet, together with a Right Hon. Gentleman (Mr. Fox), who was inferior to neither in talents or abilities, Lord Shelburne, then Secretary of State, had written a letter to the Lords Lieutenants, Mayors, and Magiſtrates in ſeveral parts of the country, ſtating, "That his Majeſty had commanded him to expreſs his Majeſty's firm reliance on the ſpirit and loyalty of his people, that they would at this ſeaſon of difficulty uſe their beſt endeavours to give equal proof of their attachment to their Sovereign, and to the ſafety of the ſtate, and that preparations ſhould be made for the defence of the kingdom; for which purpoſe he had ſent to them a propoſition for augmenting the force of the nation: That his Majeſty commanded his Secretary of State to requeſt they would take this plan into their immediate conſideration, and to report to him whatever might occur to them as neceſſary to carry that plan into effect, to anſwer the purpoſes for which it was ſubmitted to them." This was an appeal to the loyalty of his Majeſty's ſubjects in the month of May 1782, under the auſpices of the adminiſtration of that day. Moſt unqueſtionably this meaſure proceeded on the moſt natural and conſtitutional principles. It was neither more nor leſs than an appeal to the zeal, the loyalty, and attachment of the people. It was a plan to induce the various towns or corporations to raiſe a certain number of men at their own expence for the defence of the country; and it was not the leaſt remarkable fact, that Parliament was not to provide one ſhilling for the maintenance of theſe extraordinary troops. The plan was dated the 11th of May 1782, and directed that the officers of the battalions ſhould be raiſed out of the gentlemen of the neighbourhood: the arms, accoutrements, and ammunition, to be furniſhed by Government, *if neceſſary*. With this irreſiſtible precedent, therefore, before him, he had no heſitation in maintaining, that the preſent adminiſtration were juſtifiable in the meaſure recently recommended, which he was convinced would be more generally adopted than thoſe Gentlemen who ſo ſtrenuouſly oppoſed it had any idea of. As to the legality of the meaſure, he

he declared (and he ſpoke from his knowledge of the law of England) that a man might give, ſpontaneouſly, any pecuniary or other aid to Government, in times of great emergency, without violating the principles of the conſtitution; and that he who gave ten pounds, or more, for that purpoſe, did not, in fact, preſent a donation to the Crown, as ſome Gentlemen affirmed, but gave it for the protection of that community of which he was a member. Hence he argued, that if it was lawful for his Majeſty's miniſters to accept of his own perſonal offer (and it was not likely that he ſhould make any ſuch offer), the following propoſition muſt be admitted, namely, that were ſuch a circumſtance to take place, he would thereby be contributing to ſwell the purſe of his Majeſty exactly in the ſame degree as if he had given his Majeſty a certain ſum of money. He ſaid, he would not treſpaſs upon the patience of the Houſe by reading the whole of this plan; he would only refer to the laſt clauſe, wherein it was provided, that the widows of thoſe officers that might be killed in the ſervice were to have *a penſion allowed them for life*. What was this, but ſaying that theſe widows ſhould have the money of the Public?

He deſired to know upon what principle it was that his Majeſty's miniſters had proceeded to tell the Lords Lieutenants of the different counties, and the mayors of different towns, that the widows of ſuch officers as might be killed, were to have the money of Government. That plan went to the raiſing and forming ſeveral corps without providing for them ſpecifically. In alluding to that meaſure, he begged to be underſtood, not to mean any thing diſreſpectful to, nor to caſt any ſtigma or reflection upon, the miniſters who were the adviſers and promoters of it. On the contrary, he applauded them, as it was what they ought to have done in circumſtances that were ſimilar to the preſent. The Right Hon. Gentleman oppoſite to him had ſanctioned Lord Shelburne's letter in the year 1782, he was aſtoniſhed how therefore he could condemn thoſe at preſent in power for adopting what he himſelf had formerly recommended. If the plan of 1782 was juſtified by the neceſſity of the times, let not the Right Hon. Gentleman blame other miniſters for following his example in ſimilar circumſtances. Beſides the invincible authority of that Right Hon. Gentleman himſelf, he might come forward with the authority of the moſt eminent men at the bar. Lord Camden, whoſe principles of liberty no man could deny, entertained the ſame ſentiments: Lord Aſhburton, whoſe profound knowledge and comprehenſive mind all had frequently praiſed, was alſo an advocate for the meaſure. Was it to be imagined that

that the venerable Earl of Mansfield, whoſe name was precious to poſterity, would have ſuffered ſuch a plan to have paſſed without cenſure, had he apprehended any danger? The opinion alſo of another great man, whoſe authority was as dear to him as any that he had mentioned (Lord Thurlow), corroborated the legality of the expedient.

If miniſters then underſtood that the plan they had propoſed was not rightly conceived by the people, and if they had imagined that they had miſled individuals, it was their bounden duty to have come to Parliament for a Bill of Indemnity. That was not done in the year 1778, when ſeveral eminent and leading characters expreſſed not the leaſt doubt upon the ſubject. In conſequence of this plan being tranſmitted to many parts of the country, in 1782 there were ſeveral anſwers written to Adminiſtration. This circumſtance took place in the month of May, and there was no Bill moved for by the Adminiſtration of the day till ſome time in June; a period at which all the letters that had been ſent in anſwer to this propoſed plan were in their pockets; and till the effuſions of zeal, affection, loyalty, and attachment of the country, were viſibly demonſtrated. It was after this period that a company of cutlers at Sheffield, and the mayor of Yarmouth, had given in their anſwers; the former, that corps would be raiſed, and that the expence would be defrayed by ſubſcription; the latter, that for certain reaſons ſpecified, the town of Yarmouth could not bear the expence. The mayor of Doncaſter had alſo written to his Majeſty's miniſters, and informed them, that it was the opinion of a meeting there, that ſubſcriptions were to be raiſed for the purpoſe of carrying this plan into execution. The mayor of Leeds had likewiſe written, and informed Government, that a ſum would be raiſed for this purpoſe. The town of Sunderland ſtated they would contribute as much as would build two batteries. In the north riding of Yorkſhire, 1070 men were raiſed and officered. The miniſtry alſo received a letter from the mayor of Cambridge, where perſons of a claſſic and academic life reſided, and who, of all others, were the leaſt likely to prefer *arma togæ*, in which it was ſtated, that a corps would be raiſed, and that arms would be purchaſed, in order that Government might be put to as little expence as poſſible. Similar intimations were received from the counties of Surry and Suſſex. There were two letters ſent from Scotland, which ſtated, that they were ſo poor that they could not ſubſcribe. From this it was clear that Adminiſtration had been underſtood to have ſolicited ſubſcriptions, and that not one word had been ſaid about that particular circumſtance afterwards. Subſequent to this, a Bill was brought in, which ſtated not one word concerning

the money that had been raiſed, but made a proviſion for the widows of officers for life.

If he were aſked whether the plan that was propoſed in 1794, were legal and conſtitutional? he would anſwer, that, under ſimilar circumſtances, corps had been raiſed in 1782, and paid and maintained by voluntary contribution. The ſame thing had been done in the year 1778. At a meeting of merchants and traders it was reſolved, that, in order to the better preſervation of our American colonies, ſubſcriptions ſhould be ſet on foot for raiſing men for his Majeſty, in ſuch manner as to his Majeſty ſhould ſeem moſt expedient. A conſtitutional Alderman (Alderman Sawbridge) had on a former occaſion voted levy-money, yet were ſuch meaſures not termed dangerous and unconſtitutional. But he was equally, he confeſſed, ſurpriſed that thoſe who diſapproved of ſubſcriptions in the year 1778, to aid Government in repelling the enemies of the country, ſhould recommend a ſimilar meaſure in the year 1782; and then again, twelve years after that period, condemn the ſame plan in the year 1794. If it were dangerous, as had been urged, it was *de facto* a danger which they and their anceſtors had "ſtared in the face" on many occaſions. It was curious to obſerve how Gentlemen changed their ſentiments, as it ſuited their own political convenience at the moment. Sometimes they reprobated innovation, and at other times they moſt earneſtly recommended it. This political inconſiſtency demanded not his praiſe; and he believed all good ſubjects of theſe realms were of the ſame opinion. The bounties which had been frequently given to ſeamen by corporations, might, on the ſame principle, be ſaid to be unconſtitutional. If the one meaſure was illegal, the other was certainly equally ſo; and he could not agree with Mr. Sheridan in his remark, that when Gentlemen accepted of military ſituations on this plan, it was "giving them a *ſword* with a *diamond handle* to it:" He owned he did not like to hear theſe attempts made to alarm the Public, on points in which there was no real conſtitutional danger. Whatever the danger was, he would be bound to ſhew, that that danger our anceſtors had looked in the face, even at the time in which the greateſt pains were exerciſed, and the moſt refined virtues were uſed, to preſerve the principles of the conſtitution pure and inviolate. The people of England, he ſaid, loved the conſtitution. Leave it to them, and they would preſerve and revere it. He was not wrapped up in his own opinion upon the ſubject. Very great and illuſtrious characters might be cited in ſupport of this opinion; ſuch as Lords Camden, Aſhburton, Mansfield, Thurlow, and Hardwicke. Parliament itſelf might be ſaid to have given its authority

authority to this meaſure. In the year 1778, Mr. Wilkes moved for leave to bring in a Bill, which ſtated it to be a dangerous and unconſtitutional practice to raiſe any money, loan, or benevolence for the King, without the conſent of Parliament. At the ſame time a reſolution was moved in the Houſe of Lords, which ſtated, that ſuch a meaſure was contrary to the ſpirit of the conſtitution, and againſt the letter of the law; but the latter part of this motion the Honourable Gentleman (Mr. Wilkes) had abandoned. And what was the reſult? Both the motions were negatived. This, he contended, was a moſt diſtinct opinion of Parliament upon the ſubject, and he ſaw no more reaſon for adopting the preſent motion, than for adopting thoſe in 1778.

It was not, in his judgment, wiſe for Parliament to come to any reſolution upon the queſtion. But after an alarm had been created, it became him to go through the ſubject. He ſhould betray the fair right of exerciſing his judgment, were he to agree with the conſtruction that had been put upon the plan by the Hon. Gentleman (Mr. Sheridan). In the year 1759, money was raiſed for levying ſeamen, under preciſely the ſame circumſtances. He defied Gentlemen to diſtinguiſh that caſe from the preſent.

He declared he did not like to be debating on queſtions which introduced obſervations tending to hold out that the King's prerogative and the intereſts of the people were diſtinct and ſeparate; nor did it become Gentlemen ſo frequently to contraſt the word *People* with the word *Majeſty*. He begged leave to remind ſuch Gentlemen, that prerogative was veſted in his Majeſty, as the father of the people, and for the benefit of the people: But was it likely that the judges of the land, who were entruſted with the preſervation of the beſt principles which the conſtitution veſted, would give their opinion in favour of ſuch a plan, if they had conſidered voluntary contributions to have been illegal and unconſtitutional? Would they not have ſaid that miniſters ought to have gone to Parliament for a Bill of Indemnity? Did they ſay ſo? No. Was it likely that an eminent and illuſtrious character (Lord Hardwicke), whoſe memory lateſt poſterity would revere, would tarniſh his own character as a judge, when he delivered his opinion upon the occaſion? Theſe were his recorded words—"The rebels ſoon ſaw the King's ſubjects endeavouring to outdo one another in zeal, affection, attachment, and loyalty. They perceived that the merchants had aſſembled, and that all deſcriptions of men crowded in with liberal contributions beyond all former times." What reaſon had Lord Hardwicke to ſay any thing about the circumſtance? That great character was not

content with merely ſaying that it was perfectly legal, and perfectly conſtitutional; but added, "notwithſtanding what has been ignorantly and preſumptuouſly ſtated to the contrary." Was it to be ſuppoſed that ſuch a great character as he had ſtated, ſo totally miſtook what had happened in the laſt century? The Mutiny Bill, and the Bill of Rights, had been referred to. What did the Bill of Rights ſtate? That the raiſing and keeping a ſtanding army within the kingdom in time of peace was contrary to law. There was no doubt about it. The Legiſlature, by the Bill, only meant, that when the conſent of Parliament ſhould be had, it ought to be had; but that prerogative was clearly veſted in the Crown, and miniſters were reſponſible for their exerciſe of it. He had alſo, as he had ſaid before, to ſupport him, the authority of Lord Coke, who was one of the perſons that framed the Petition of Right, and who had decidedly given his opinion upon the legality of receiving voluntary contributions, by the ſentence he paſſed on Mr. Oliver St. John, for writing againſt thoſe voluntary contributions in 1615; and alſo what his opinion was upon the ſubject, might be collected from his reading on the ſtatute of Richard III. which he intended to ſay ſomething on hereafter. The Petition of Right recited the ſtatute of Richard III. upon which Lord Coke had commented. That great authority concluded his comment with, *quod nota bene*, "*if money is given with free will and conſent, this is not prohibited by any ſtatute.*"

The Attorney General cited a number of caſes, one in particular in the reign of Richard III. who ſolicited a ſubſcription in perſon. He ſaid, to a widow, "What will you give me for the maintenance of the war againſt my enemies?" She ſaid, "In faith from your lovely countenance you ſhall have 20l." He thereupon kiſſed her; and ſhe immediately ſaid he ſhould have 20l. more. Mr. Attorney alſo quoted the ſober declaration of all the judges in the reign of Queen Elizabeth, whereby it was ruled, "*that a free gift, or benevolence without compulſion, is lawful.*"

The Petition of Right provided that no man ſhould be compelled to give benevolences againſt his will. Would the Hon. Gentleman infer from this, that the Legiſlature had left the matter ſo as to miſlead poſterity; and if ſo, would poſterity have been willingly miſled from the year 1617 down to the year 1794? He wanted to know, why the Hon. Gentlemen on the oppoſite ſide had ſuffered ſeveral of the Nobility in this country to raiſe companies at their own expence? He wiſhed to know, why the Eaſt India Company had been ſuffered, during the American war, to ſubſcribe three ſhips? or why a Noble

Noble Lord (Lord Lonſdale) had been ſuffered to *promiſe* a ſeventy-four, the name of which was not to be found in the liſt of the Engliſh navy?

The Attorney General declared, from the beſt view he had of the ſubject, and the utmoſt attention he could give it, the ſubſcriptions in queſtion were legal; but it was not wiſe to come to any reſolution upon the ſubject. The meaſure itſelf ſtated the plan, which it was impoſſible could be carried into effect without the concurrence of Parliament. What he had humbly to propoſe was, that the right of the ſubject ought not to be condemned. If the Right Hon. Gentleman was convinced, that by this plan ſomething hoſtile was intended to the conſtitution, he might impeach the adviſers and promoters of it.

He concluded with ſaying, that he held it a duty incumbent upon him, from the ſituation that he filled, to move the *Previous Queſtion.*

Mr. Powys maintained arguments ſimilar in their nature, and founded upon ſimilar principles. He thought the ſubject had a right to give what pecuniary aid he pleaſed, provided it were applied by Parliament for the benefit of the community. He thought however that the meaſure might have been brought forward in a better form. He declared he was not apprehenſive of any danger; and would never be alarmed till he ſaw troops muſtered without the conſent of Parliament. He therefore ſeconded the motion of the Attorney-General.

Mr. Fox roſe, and in ſubſtance ſpoke as follows: "Sir, I muſt confeſs that a more than ordinary curioſity had been excited in my mind with regard to ſomething which fell from a Right Hon. Gentleman (the Chancellor of the Exchequer), who, on a former night, intimated ſomething like a charge againſt me of inconſiſtency in my political conduct; which, upon a ſtrict review of it, I have not been able to diſcover; and, from what I have heard this night, ſeems not to have had an exiſtence. Two circumſtances have further increaſed this curioſity, *viz.* who was to come forward to charge me with inconſiſtency, and what the inconſiſtency was, with which I was to be charged? I thought of the old plain ſaying, "that he whoſe houſe was made of glaſs ſhould not be the firſt to throw ſtones;" and if that wiſe and benevolent principle of the Chriſtian religion, "*let him who is innocent throw the firſt ſtone,*" was to be obſerved, I was at a loſs on which ſide of the Houſe to look for my accuſer. If I looked on the bench near me, I did not think it probable, that he would be found amongſt thoſe Gentlemen who reprobated the employing of Heſſian troops at Gibraltar and Minorca, but vindicated the

landing of them on the Iſle of Wight. It would be ſtrange indeed if it had been thrown by the Hon. Gentleman who ſeconded the previous queſtion. I could not imagine that the charge of inconſiſtency, in political conduct, would be urged againſt me by a Gentleman who commenced his political career as the firm and unalterable advocate of a Parliamentary Reform, but who has ſince not only abandoned that cauſe, but has been its ſtrenuous oppoſer in every ſhape in which it has appeared. I was pretty certain that this charge muſt come from ſome young Member, as a young Member would be the leaſt liable to have the charge of inconſiſtency retorted upon himſelf. The conteſt for ſome time upon whom this duty ſhould fall, ſeemed to lie between a young Member (Mr. Jenkinſon), and the Learned Gentleman who made it, and who, though not a young Member, was young in reſpect of the tranſactions of which he has taken upon himſelf to ſpeak. It would have been an object of amuſement to have had a view of the divan, when conſulting who was the fitteſt perſon to diſcharge this important duty: It puts me in mind of a ridiculous ſtory, which I ſhall take the liberty to relate. An Engliſhman at an inn in France, being imperfectly acquainted with the language of the country, and having occaſion for the aſſiſtance of a female ſervant, could diſcover no other way of expreſſing his ideas, but by calling for *La Pucelle*. The women of the houſe were in ſome dilemma on hearing this demand repeatedly enforced; and at length a girl of ſeven years of age was preſented to the traveller, as likely to anſwer the deſcription of the perſon he required; in conformity to this rule, the *virgin purity* of the Learned Gentleman (the Attorney General) was pitched upon to expoſe his own political proſtitution and inconſiſtency.

"From a young Member of Parliament I expected perfect conſiſtency, eſpecially from a Member who had undertaken the charge of inconſiſtency againſt another.

"The Hon. Gentleman, who ſeconded and ſupported the motion moved by the Learned Member, is not ſo young a Member; he well recollects the circumſtances which paſſed in the year 1782. I wonder much that the Hon. Gentleman, if he ſaw any thing cenſurable in the conduct of that day, did not fully and fairly condemn the meaſure. Did he do any ſuch thing? So far from it, he was perfectly ſilent on the ſubject; he either ſaw nothing that could be condemned, or thought it too trifling for cenſure. In this circumſtance it had the advantage over the meaſure that day adopted, for this he has declared not to be altogether to his mind, and that he has not condemned. I am ſure, in Lord Shelburne's letter, he will

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not find the moſt diſtant alluſion to any ſubſcription. It was a circumſtance that never entered the minds of any of thoſe Gentlemen who compoſed the Adminiſtration of 1782. They had not an idea of the kind; and if any perſon had intimated that Lord Shelburne's letter had ſuggeſted ſuch an idea, or circulated it abroad, it would have been matter of great ſurpriſe.

"The Learned Gentleman has aſſerted, that he who aſks for money's worth, aſks money. With this principle, in its full extent, I can by no means concur; if ſo, the impreſs of ſailors is a mode which the King poſſeſſes of raiſing a ſupply independent of his Parliament. Is this the caſe? Moſt certainly not. It is a diſtinct prerogative veſted in the Crown, ariſing from peculiar circumſtances, and peculiar neceſſity, with which the other has not the moſt remote connexion. Lord Shelburne's letter was not a ſolicitation, it was not a requeſt, nor even a hint at any contribution or ſubſcription; and if any ſuch have been entered into in conſequence of that letter, they muſt have been of ſo trivial a nature as not to have made any impreſſion upon my memory. This letter had merely for its object to take the advice of the people at large, with reſpect to the propriety of arming for the defence of their country. It was not intended to take the people from their ſeveral employments; he who purſued agriculture, was not called upon or compelled to abandon his plough, nor the artiſan to lay down the implements of his trade: All that was wiſhed for or expected was, that they ſhould give up a few hours of their time to acquire a moderate ſhare of knowledge of the uſe of arms, in order to render them in ſome degree capable of defence, in order to remedy that ſtate of weakneſs which was well known to be the fact at that period, and to prepare them againſt any danger that might threaten them. There was no money aſked, nor had any been received; had ſuch an idea been ſtarted, ſure I am that it would have been indignantly reprobated. Had the Chancellor of the Exchequer governed himſelf by the ſame principle (as I expected he would have done) in his meaſure of this day, inſtead of an opponent he ſhould have found me one of his moſt hearty and ſtrenuous ſupporters.

"It has been urged, that the meaſure in 1782 differed not from that which I oppoſed in 1778, ſupported by my Lord Camden and Lord Aſhburton. I had, in the year 1782, the honour to be of his Majeſty's Cabinet Council, conſiſting at that time of 11 Members, ten of whom had oppoſed the ſubſcription of 1778. Was it likely that we ſhould, directly after our entering into the miniſtry, adopt thoſe principles in 1782 which we had with ſuch firmneſs oppoſed in 1778? The Cabinet was compoſed of men to whom character was too valuable to trifle

with. Lord Camden and Lord Aſhburton, men well acquainted with the law and conſtitution, were at that time in the Cabinet. The Marquis of Rockingham, though no lawyer, was a man who underſtood the conſtitution, and his greateſt enemies will allow that he poſſeſſed firmneſs and conſiſtency, that he had not that verſatility of character that could make him act on principles, when in adminiſtration, oppoſite to thoſe which he avowed when in oppoſition.

"I had alſo underſtood that there was ſomething to be collected from my own ſpeeches which would prove my inconſiſtency. Words are difficult to retain; but from recollection, I know of no conſtitutional doctrine that I ever advanced which I have yet abandoned. It is, however, ſomewhat ſurpriſing that this inconſiſtency of conduct, with which I am now charged, was not urged againſt me at the time when the matter was freſh in the memory of every man; but, after a period of twelve years has elapſed, an attempt is made to convict me of inconſiſtency, which at the time of the tranſaction itſelf was never thought of. Would it not have been natural for ſome Gentleman or other to have ſaid, if any objection were made to the meaſure adopted in 1782, "You are now acting upon the identical principles which you oppoſed in 1778?" Was any ſuch objection ſtarted? No, Sir, the objections were of a very different deſcription. The danger of becoming an armed nation, like Ireland, was ſtrongly urged; and the injuries committed by the volunteers of that kingdom were ſtated by a Learned Gentleman (Mr. Mansfield), whoſe talents and whoſe character I much reſpect; but the volunteers of Ireland, in my opinion, far from injuring their country, rendered it great and eſſential ſervice.

"I have conſulted the record of the debates of that day, the Parliamentary Regiſter, which, though not entirely to be relied on, certainly is more to be truſted for what it contains than for what it omits, and gives the general line of argument, and the great principles advanced. In them I can find nothing which can brand me with the charge of inconſiſtency.

"The Learned Gentleman's caſes and authorities have all been before produced, and very ably argued by a late Noble Earl (Lord Guildford) in 1778, but without convincing me of the legality of voluntary ſubſcriptions, any more than the arguments of the Learned Gentleman did then. The authorities on the point of legality I admit to have conſiderable weight, but the inclination of my opinions is againſt them. Why the Learned Gentleman has preſſed it ſo much I know not; perhaps it was from an eagerneſs to apply to me perſonally. The Learned Gentleman ſays, that I did not oppoſe the giving

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ſhips, and other private aids. He mentioned the offer of a 74-gun ſhip from a Noble Earl (Lord Lonſdale), the name of which is not to be found in the liſt of the navy of Great Britain; and other ſhips from the Eaſt India Company. Theſe meaſures I did oppoſe, and that in my ſpeech at the beginning of that ſeſſion of Parliament. I oppoſed them, and cenſured them, becauſe I conſidered every gift of that nature an injury to the conſtitution.

"In arguing the queſtion of loyalty, the Learned Gentleman began with the lateſt precedents, from a hope, I ſuppoſe, that, after a legal manner, he could make the matter appear more clearly; but he ſeems to have been diſappointed in his hopes; certainly the Learned Gentleman muſt have quibbled away his ſenſes in the purſuits of his profeſſion, or he could never have argued this point in the manner he has done. The precedent of 1782 he has contended to be ſimilar to the preſent, and alſo to that of 1778.

"I ſhall here take the liberty of quoting the authority of a Right Hon. Gentleman (Mr. Burke), whoſe abilities all men muſt confeſs and admire, and whom for many years I had the happineſs to call my friend; his opinion is clear and decided upon this head, in favour of that doctrine which I ſupport. The Learned Gentleman contended, that the ground of argument uſed by Lord Aſhburton and Lord Camden, in the year 1778, turned entirely on thoſe contributions being left at the diſpoſal of his Majeſty. I remember the arguments of Lord Aſhburton well, he confined himſelf to no ſuch narrow ſyſtem; he took the broad and general ground of objection to contributions in any ſhape. I remember, too, the arguments of Lord Thurlow, who certainly advanced many forcible reaſons, which had conſiderable weight in my mind, though I concurred in opinion with Lord Aſhburton; but the point for which he contended was, that contributions were legal and conſtitutional, when they came voluntarily from the bounty of the People, without ſolicitation on the part of the Sovereign.

"With regard to the donations given in the year 1756, they were no more than what were given laſt year to the troops in Flanders. As to the events of the year 1745, no man could endure that theſe ſhould be quoted as precedents, unleſs his underſtanding was loſt in the labyrinth of legal diſtinctions. The authority of Lord Hardwicke was entitled to great attention; but his opinion was delivered on a particular occaſion, and in a time of great danger and neceſſity, after he had ſat on the trial of the rebel Lords. Before the ſtatute of Richard III. benevolences were taken, and it was there expreſsly ſtated, that

that "a man ſhall not give what he liſteth;" he ſhould not make voluntary gifts, becauſe the example would be a kind of compulſion to others. The Judges, ſays he, had they done wrong, ſhould have implored a Bill of Indemnity. How long is it ſince the Learned Gentleman became the advocate for Bills of Indemnity? A few days ſince he maintained a conduct and opinion widely different from this; he tells us, that, on the preſent occaſion, he delivers an opinion, not becauſe it is neceſſary to deliver an opinion on a great conſtitutional queſtion, but becauſe it is pleaſing to many of thoſe who are dear to him.

"On a former day, when another conſtitutional queſtion was diſcuſſing, and when the Learned Gentleman ſupported the previous queſtion, he ſaid, he would not deliver an opinion. From this, may we not ſuppoſe the reaſon was, becauſe it would not be ſo pleaſing to his friends? and that his ſilence makes for us in one caſe, as much as his arguments make againſt us in another? Thoſe two great palladia of Britiſh liberty, the Bill of Rights and the Petition of Right, which ſhould never be mentioned but with veneration and reſpect, I hear this day mentioned with apprehenſion, leſt they ſhould be made uſe of as arguments to deprive us of ſome privilege or right; becauſe the Bill of Rights is ſilent on the ſubject of voluntary contributions, on that ground voluntary contributions are held to be lawful; as well might it be ſaid, that becauſe it contains a declaration of the ſubject's right to petition the King, but is ſilent with regard to his right of petitioning the Commons, that therefore no ſuch right exiſts. The Learned Gentleman has depended much on the conſtitutional authority of Lord Coke; but I wiſh at the ſame time he had quoted Sir Francis Bacon, a man of great talents and erudition alſo, though unable to withſtand the teſt of corruption. In Lord Coke's political conduct, as much deference to his opinions as I am willing to declare due in other points, he does not ſeem to me to be quite conſiſtent: In the caſe of Mr. Oliver St. John, whoſe expreſſion I ſhall uſe, becauſe forcible and well founded, who, ſpeaking of contributions, ſays, "Contributions never can be voluntary; ſome giving through pride, others through fear, and ſome from intereſt." Sir F. Bacon, in his Life of Lord Coke (though it is not very fair to take the account from Lord Coke's rival or enemy), ſays, that when the caſe of St. John was firſt repreſented to him, he delivered, as his opinion, "that all gifts, however voluntary, were illegal;" but when he came to judge Mr. St. John in the Star Chamber, he changed that opinion; and, at all events, the ſentiments of Lord Coke, that go to ſupport this doctrine, are

are taken from his poſthumous works, which never underwent a reviſal; poſſibly, if they had, would never have appeared to the world in the ſhape in which they now appear.

"Let me aſk, however, whether theſe contributions are innocent with regard to the conſtitution? Are they attended with no evil conſequence? Might not a great party, or great power, joining with the Crown (allowing this right of private contribution), enable the Crown to carry on a war contrary to the opinion of Parliaments, or to undertake meaſures ſtill more deſtructive to their liberties? It is certain, miniſters could be found to urge ſuch meaſures, and aſſiſt in their execution. This argument has been urged already by my Hon. Friend (Mr. Sheridan), and ſtill remains unanſwered. The motion, it was ſaid, did not apply to what happened: I ſhall ſtate the caſe as it appears to my underſtanding. What has happened? The executive government have iſſued a requeſt, or requiſition, ſtating, that it would be deſirable to enter into ſubſcriptions for certain purpoſes; and what is my Hon. Friend's motion? That ſuch conduct is dangerous and unconſtitutional. Does not this go to the very point to which it ought to go, *viz.* to cenſure his Majeſty's miniſters for miſconduct? Gentlemen ſay, if there be miſconduct, why do you not impeach? I am not for impeaching miniſters for every trifling offence; an impeachment is to procure puniſhment for great offences. But were the preſent voluntary gifts? No, they were worſe; they were ſolicited benevolences. The Secretary of State, in the name of the King, wrote letters to the Lords Lieutenants of the counties, deſiring them to take the matter into conſideration: Was not that a requeſt from the King? The only relation between the King and his ſubjects was, that he was to command, and they were to obey. When the King requeſts from his ſubjects individually, he puts himſelf in a ſituation which lowers his dignity. Was it to be ſuppoſed, that when an individual, placed at ſuch an immenſe diſtance above all others, aſked a requeſt of any of them, that they could refuſe him? In applications of that kind, were we not men conſtrained, and was it not neceſſarily a ſort of compulſion? Might not miniſters adviſe his Majeſty to mark thoſe who ſhould refuſe his requeſt? That requeſt I maintain to be nothing leſs than a command: I think ſuch a requeſt inconſiſtent with the dignity of a King, and incompatible with the ſituation of a ſubject. Thoſe requeſts under which ſubſcriptions have been opened in different counties, are tantamount, or at leaſt very near in reſemblance and effect to a command; becauſe they place the ſubject in ſuch a ſituation that he cannot well refuſe a compliance. Wherein conſiſts the utility of the meaſure?

ſure? Will it be ſaid that it is not a tax upon the poor as well as the rich? I know of no way by which we can tax the rich, that it will not ultimately fall on the poor. It is vainly imagined in France, that, by depriving one great man of his diſhes of ſilver and gold, and another of his money, that this will be of advantage to the poor: No, Sir, theſe are the means by which the poor are maintained. The luxuries of the rich are a principal medium of their ſupport; and if the rich man gives up part of his property in voluntary contributions, he muſt deduct ſo much from his expences, which the poor muſt ultimately feel. In ſhort, a ſyſtem of taxation that will affect but one claſs of men is a thing impoſſible to invent, becauſe every ſyſtem of taxation, however modified, will eventually operate on all ranks of people.

"Let miniſters attribute what malice they pleaſed to thoſe who deteſted the war; let them, if they pleaſed, ſay that the French, upon landing in Kent, would go to attack Walmer Caſtle, and paſs by the manſion of one of his (Mr. Fox's) friends; that in marching through Suſſex, they would attack Goodwood, and leave Arundel Caſtle behind them; let them attribute any motives to him and his friends, he truſted they would always be found ready to defend their country in caſe of actual danger, as they were then defending the conſtitution. The preſent impolitic meaſure had a clear tendency to awaken thoſe mutual jealouſies and animoſities which were ſaid to ariſe from a dangerous democratic ſpirit prevailing throughout the country. It had a tendency to diſcover what the political ſentiments of men were; becauſe, if a man ſhould refuſe to ſubſcribe, it would be ſaid that he was diſaffected to the conſtitution. And, beſides the impolicy of the meaſure, was not its inutility evident? He was perſuaded that not much more than 300,000l. could be raiſed by it. Why then ſhould miniſters occaſion theſe differences? Is it for the ſake of thoſe who have lately joined their ſtandard, in order to exhibit with what facility they would be brought to contradict all thoſe opinions they had for years maintained? When on one ſide an opinion exiſts, that thoſe on the oppoſite ſide will take every opportunity to encroach on the rights and liberties of the ſubject, and they in return think that they are Jacobins in principle, and wiſh to ſubvert the conſtitution? But let thoſe opinions be what they may, in caſe of invaſion, are not we all equally apprehenſive of the danger, and equally anxious to avert it, unleſs they alſo ſuppoſe that the National Convention keep a liſt of the minority, and upon coming here would preſerve their lives and their properties inviolate? That I ſhall be this night left in a minority, I have but little doubt, as I had it yeſterday

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from good authority, being ſo told by a Lord of the Bedchamber at the meeting in the County of Surry (Lord Onſlow); and Lords of the Bedchamber, Sir, are notorious for being wonderfully ſagacious animals at ſmelling out a majority in either Houſe; therefore I have the leſs reaſon to regret the moving of the *previous queſtion*. But, upon the whole, I conſider this meaſure of raiſing money, by public contribution, ſo impolitic and unconſtitutional, that were a Bill brought in ſimilar to that paſſed in the reign of Charles the Second, authoriſing his Majeſty to receive voluntary contributions, and limiting the ſum to be ſo received, I ſhould oppoſe it with all my power. Parliament had ſhewn itſelf ready enough in voting ſupplies, and more danger was to be apprehended from its profuſion than its parſimony. It had given away thirty or forty millions a year: Why, therefore, haraſs individuals with ſuch an application, when all parties were ready and diſpoſed to vote, in a conſtitutional way, every requiſite ſupply, and perſonally to ſtand forward in defence of the kingdom, if ſuch exertion became neceſſary? Let us then adhere to that wiſe cuſtom of our forefathers, as the beſt preſervation of our independence, the ſole right to grant money to the Crown. Suppoſe the Houſe of Lords were to offer collectively out of their private pockets to contribute to the exigencies of his Majeſty, would the Houſe of Commons endure it? On the contrary, would they not ſpurn at the propoſal? Even in the leſs enlightened days of Henry and Edward you would not ſuffer it, and will you at this period ſuffer that right to be encroached upon at every county meeting?"

Mr. Windham ſaid, as much curioſity as the Right Hon. Gentleman had profeſſed to have felt, to hear by whom the charge of inconſiſtency would be brought againſt him, an equal ſhare of curioſity he had himſelf felt to hear what ſort of anſwer the Right Hon. Gentleman would make to that charge. The Right Hon. Gentleman, conſcious that no good anſwer was to be made to it, had reſted his vindication, not on the merits of the caſe, but on a general appeal to the great authorities with whom he had acted in 1782.

Mr. Sheridan, he admitted, had marched up fairly to the queſtion, and ſtated it in a manner plain and diſtinct; ſo much ſo, as unfortunately for him to overthrow his own poſition, and render his ſtatement too weighty for his argument; for if any one before had a doubt on the ſubject, he was ſure, after what had fallen from that Hon. Gentleman, he would feel himſelf perfectly ſatisfied and at eaſe. The Hon. Gentleman had argued the queſtion on two main grounds: Firſt, on the broad conſtitutional doctrine, "That all applications

for money ſhould come to Parliament, whoſe duty it was not to ſuffer that privilege to be eluded." Secondly, "That forced loans, uſually called benevolences, are illegal." Theſe two poſitions Mr. Windham wiſhed to be kept diſtinct, and not to be confounded, as they frequently had been in the courſe of the debate; arguments having been founded on one, and concluſions drawn from another. The firſt of theſe poſitions, as a general doctrine, he allowed to be ſound and unimpeachable; but, like every other general doctrine, it muſt be allowed that it was ſubject to exceptions, which, if denied, would carry the poſition much farther than its own advocates ſeemed to be appriſed of. The Hon. Gentleman had taken an extreme caſe, and aſked if they would allow an opulent party to ſupply the Crown in a manner which would deſtroy the neceſſary controul of Parliament. If they ſaid no, and recognized the general principle, the Hon. Gentleman inferred that all grants to the Crown, however ſmall or temporary, were equally bad. This mode of arguing was, however, a double-edged ſword, in the uſe of which the Hon. Gentleman would not gain much; for it might be argued back on him, that as it was obviouſly uſeful, and in fact had often been practiſed in ſome caſes, therefore it was good in all. As the Hon. Gentleman admits no modification, and contends that all caſes muſt be equally bad, or equally good, we have as great a right to avail ourſelves of this argument as he has. This ſtrict and univerſal argument, however, though in general well adapted to queſtions of law and ſcience, is ill adapted for politics, every queſtion of which is modified by circumſtances. To argue from the greater to the ſmaller caſe, or *vice verſa*, is on this ſubject equally improper. The propoſition which was brought before the Houſe, was one of thoſe that could neither be univerſally affirmed or univerſally denied. The Hon. Gentleman knew no medium, nor would admit of any. He went upon the modern refinement of applying every thing to general abſtract principles. Though this was a queſtion of political wiſdom, and therefore not ſubject to the ſtrictneſs of poſitive law, yet the Hon. Gentleman had argued it as a legal queſtion. His opinion upon the ſubject was, that when the people do not cry out againſt ſubſcriptions, no danger can be apprehended from them. When they did expreſs their fears, then it would be evident that the contributions had become compulſory, and it would then be time enough to make declarations againſt the legality of them. He diſliked abſtract declarations, unleſs there was real danger, or the appearance of the approach of real danger. Would any man in his ſenſes expreſs a fear that what was doing in this country had any tendency

dency to revive thoſe compulſory benevolences, and forced loans, which the people had long ago exclaimed againſt, which had been deſtroyed, and almoſt forgotten; the very ſeeds of which had been exterminated never to ſprout up again? No man could entertain ſuch an apprehenſion. The Hon. Gentleman had formerly been of opinion, that the conſtitutional controul of the Houſe of Commons was not in its power of refuſing ſupplies. He now argued, that the ſubſcriptions tended to deſtroy a controul, which, according to him, did not exiſt. It had been reported of himſelf, Mr. Windham ſaid, in a commercial city (that which he had the honour to repreſent, and probably the report had been induſtriouſly circulated there, becauſe it was the place in which the imputation of ſuch a ſentiment was moſt likely to hurt him), that he had ſaid, ſpeaking of commerce and the conſtitution, "Periſh commerce, and let our conſtitution live!" He had never expreſſed that ſentiment, nor did he wiſh ever to be obliged to make an election between our commerce and our conſtitution. If he was called upon to look at the danger, among all the poſſibilities of danger to the conſtitution, the revival of forced loans from the ſubject was that which appeared the moſt remote. He even doubted whether the poſſibility had ever entered ſeriouſly into the mind of any man. What was the difference between the preſent meaſure and the caſe of 1782? In 1782, the Secretary of State ſent letters to the Magiſtrates to aſk their opinion on the propriety and the mode of arming the People. This was a very proper and a very reaſonable meaſure; and ſo was what the Secretary of State had done now. The Right Hon. Gentleman ſaid, there was no mention of ſubſcription in the letter of 1782; ſo much the worſe. If there was not the word, there was the thing; for how were men to be armed without expence? To attempt making a diſtinction of this ſort was more like the quibbling of a lawyer than the argument of a ſtateſman. The letter of 1782 ſo clearly implied expence, that in a mercantile tranſaction where the expence incurred was to be repaid, he believed it would have been held binding. If the troops were granted, was it not implied in the grant, that the means of eſtabliſhing and ſupporting them would be alſo granted? The troops could not be raiſed without money. When, therefore, a Bill paſſed for raiſing ſo many troops, it was neceſſarily implied in it, that competent ſum ſhould be provided to maintain them. In affair of commerce, if a merchant directed his agent to procure hin certain commodities, without ſaying any thing about money, it would be underſtood that the principal was to make good the ſum which the agent might expend. Seeing no violation either

either of the ſpirit or the letter of the ſtatute that had been referred to, apprehending no danger from the precedent, nor fearing that voluntary ſubſcriptions could ever lead to the revival of compulſory ſubſcriptions or forced loans, he ſhould have been ready to vote againſt the motion had that been neceſſary; but the opportunity being offered, and chuſing rather, as he had done on the firſt debate on the legality of landing the Heſſian troops, to avoid deciding on an abſtract principle, he ſhould vote for the previous queſtion.

The Right Hon. Gentleman (Mr. Fox) had thought proper to allude to his conduct in reſpect to the ſubſcriptions during the American war. He did not allow this to be a fair and candid way of reaſoning, to *lay out* for the votes of Gentlemen, by reproaching, or threatening to reproach them, with inconſiſtency, without conſidering at all the merits of the caſe, and the different circumſtances of the moment. Valuable as political conſiſtency was to his character, he would not, if he had been inconſiſtent, ſacrifice truth to it. He would always act according to his laſt conſideration of things, whatever opinions he might have formerly given. Leaſt of all was he deſirous to be conſiſtent in perſevering in error. At preſent, however, he did not feel himſelf under any embarraſſment or difficulty whatever, nor apprehend that he could be convicted of inconſiſtency. He certainly had oppoſed the ſubſcriptions in 1778, for carrying on the American war, becauſe he thought the war unjuſt, and becauſe he wiſhed that America might not be overpowered by this country. His love of his country, great as it was, had yielded to juſtice. He was afraid that the war might have become popular by the ſubſcription, and that troops would have been raiſed to oppreſs the Americans. He wiſhed to throw every poſſible obſtacle and impediment in the way of that war, and for that purpoſe only he had oppoſed the ſubſcriptions. The arguments of the illegality, ſuch as they were, uſed to-night, were then urged and preſſed upon the Public; and perhaps he might have taken them up, as he was right in making every objection, good or bad, to a meaſure which he diſapproved. He would admit, that if the Right Hon. Gentleman felt concerning the preſent French war, as he had felt upon the American war; if he thought France had juſtice on her ſide, and that the cauſe of human nature was in danger; then he (Mr. Windham) confeſſed, that the preſent oppoſition to the voluntary ſubſcriptions was juſt on that principle. He was not certain that he had ſtated any thing on the ſubject of ſubſcriptions in 1778 farther than doubts of their legality. That it was a doubtful point, appeared to him at the time to be a ſufficient ground of argument.

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The Honourable Gentlemen, who had lately, as they thought, ſupported the privileges of the people, arrogated to themſelves the titles of the only champions and guardians of the Conſtitution, becauſe they oppoſed the royal prerogative. They deſired all who loved the Conſtitution to fly into their arms. He knew not by what excluſive claim they aſſume the title, nor what paticular occaſion there was for their guardianſhips. He recollected a good old Spaniſh proverb, which was not inapplicable: "Take care of me againſt my friends, and I'll take care of myſelf againſt my enemies." Yet theſe Gentlemen, the redoubted champions of the Conſtitution, who ſeemed to feel pain *if the winds of heaven viſit it too roughly*, were always ready to expoſe it to the ſavage knife of every reformer, to remove the old ſtays and props of the Conſtitution, meaning to *lop off its limbs*, and ſupply their place with *wooden legs and patent ſprings* of their own manufacture. If they were permitted to lop and reform as often as they propoſed, the old friends of the Conſtitution would not know it again. On what did Gentlemen found this proud claim? They were not entitled to call themſelves defenders of the Conſtitution, merely becauſe they oppoſed the prerogative of the Crown; for that was a part of the Conſtitution; and as eſſential to the liberties of the people as any other. Beſides, the conſtant oppoſing of prerogative was not a ſufficient characteriſtic to mark a patriot; it was at beſt but an equivocal claim to patriotiſm.

It was not a favourable circumſtance to the Honourable Gentlemen, that they were always joined in their conſtitutional exertions by a ſet of men, whoſe wild and frantic ideas of democracy, if brought into practice, would accompliſh univerſal deſtruction. The Honourable Gentleman (Mr. Sheridan) had not relied much on the ſtrength of his propoſition, or he would not have gone to ſuch a variety of topics to prove it. If ſubſcriptions were clearly unconſtitutional, where was the uſe of taking up ſo much time to prove their dangerous tendency, conſidered abſtractedly? The objection that perſons who did not ſubſcribe would be looked upon as diſloyal, had little weight. Many would not contribute, though they were much attached to the Conſtitution; they might love their money better than the cauſe; a circumſtance not inconſiſtent with a conſiderable ſhare of loyalty.

Gentlemen on the other ſide would be judged of by thoſe with whom they aſſociated, by thoſe whom they reſembled in conduct. In what company were the Honourable Gentlemen and their motion this night? In the year 1745, Sir John Hynde Cotton, and others who were known to be Tories, and favour the views of the *French and the Pretender*, had held preciſely the

the ſame opinions of ſubſcriptions. They too, after the King's troops were defeated, even when the rebels were at Derby, and when there had been a general alarm in London, and in all the kingdom, affected to ridicule the danger, juſt as the Oppoſition of this day had uniformly done ſince the commencement of the war. The other party were the *alarmiſts* of thoſe days. Sir John Hynde Cotton and his friends ridiculed them for their fears. Mr. Windham concluded with repeating his expreſſions of abhorrence of abſtract declarations, when there was no real danger of abuſe of power.

Mr. Fox roſe to explain. He ſaid he was ſorry to hear, what he had taken ſome pains to render clear, miſtated. The Circular Letter, written in 1782, had neither the word ſubſcription, nor was it implied in it; beſides, he could poſitively declare, that he never had the ſmalleſt idea of a ſubſcription being commenced; nor had he heard of any perſons actually ſubſcribing. Why, he aſked, when he arraigned the conduct of the miniſter in 1783, was he not upbraided with this impropriety? Why, during the courſe of debate, at that time and ſince, was not the ſubſcription, if any there was, alluded to? Surely, when it was freſh in mens' minds, was the moſt likely time for inſinuations of ſuſpicion to be thrown out, if ground for any could have been ſeized upon. Was it ever mentioned by any Member? Was there even a debate on the ſubject, as there was at preſent?—No. He was convinced, could the Hon. Gentleman, who ſucceeded him, diſcover that he, or thoſe with whom he had acted, had ſuggeſted ſuch a plan, that it would not be paſſed in ſilence, or at leaſt totally forgotten.

Without claiming any credit for candour or conſiſtency, he might at leaſt expect ſo much for common ſenſe, as to be ſuppoſed incapable of blaming in the December following, the ſubſcriptions propoſed by Lord Shelburne's adminiſtration, if he had approved of ſimilar ſubſcriptions ſo recently before.

Sir James Sanderſon read an account of a ſubſcription entered into by the citizens of London, for the uſe of his Majeſty, and the better defence of the country, in the time of the late Lord Chatham, when that diſtinguiſhed character was Secretary of State. Lord Chatham approved of the city's ſubſcriptions at the time, which was to him a ſufficient proof of their having been legal and conſtitutional. Sir James concluded with obſerving, that he thought it conſtitutional to countenance ſuch a meaſure, and would give it his ſupport.

Mr. Sheridan ſaid, at ſo late an hour, when he and the Houſe muſt both be exhauſted, and after the very imperfect manner in which his former arguments had been anſwered, he ſhould have had the leſs occaſion for troubling the Houſe at

any length, were it not for the extraordinary ſpeech delivered by the Honourable Gentleman who ſo recently ſat down. There was a time when it would have been with the moſt ſenſible regret that he could have heard any improper motives aſcribed to him from that quarter. He had however that day heard him without emotions of that nature. Indeed, ſince the Honourable Gentleman had changed the line of his political conduct, and adopted a new party, he had ſhewn himſelf ſo wonderfully dexterous in the art of enveloping his arguments, his principles, and his attachments, in the moſt impenetrable mazes of obſcurity, he had ſo blended his new-born zeal for Adminiſtration with expreſſions of the tendereſt affection for his Right Honourable Friend (Mr. Fox), that it was not till the preſent night that he had unequivocally ſpoken out: As plain dealing was a virtue in politics, as well as in other points, he begged leave to return the Honourable Gentleman his thanks for his ſincerity. The Honourable Gentleman had warned the Members of Oppoſition of the improper company with which they had aſſociated, and ridiculed their pretenſions of being the excluſive champions of the Conſtitution, inſinuating that the defence of it would be ſafer in other hands; but the Right Honourable Gentleman ought ſurely to recollect, that they were the ſame company, and the ſame champions, with whom he, till very lately, acted in apparent union, and in perfect confidence. In order to ſtigmatize his old friends in the moſt forcible manner, he had drawn an inſidious parallel between their motives and thoſe which actuated Sir John Hynde Cotton, and other Jacobites, in the year 1745, who could diſcover no danger in the approach of the Pretender, becauſe they were intereſted, and deſirous of his ſucceſs. If, in truth, the Honourable Gentleman knew, and really believed, that there were ſuch perſons among the preſent Members of Oppoſition, why did he not honeſtly and manfully ſtand up and proclaim them, inſtead of dealing in ſkulking and inſidious jeers? Did the Honourable Gentleman mean to repreſent him as a favourer of the French?—[*A loud cry* from the Miniſterial ſide of *Hear! hear!*] Was he to underſtand by this cheer, that he had rightly underſtood the inſinuations of the Honourable Gentleman?—[The cry of *Hear! hear!* repeated.] If there were any Gentlemen in the Houſe, who thought that he was acting from motives of affection to the French, he deſired him boldly and manfully to ſtand up, and declare his ſuſpicion.

[*Mr. Yorke* immediately roſe, while ſeveral Members were calling Mr. Sheridan to order. The *Speaker* demanded of Mr.

Yorke, whether he meant to ſpeak to *order*; and no anſwer being returned, Mr. Sheridan proceeded.]

The Honourable Gentleman, he ſaid, who, by his riſing, interrupted the ſcope of his obſervations, could not be ſuppoſed to riſe without ſome motive, and as he had accepted his challenge, he thought him too fair and manly to retract any intention he might have had in ſo doing; he was glad to find him take time for deliberation, which would perhaps enable him to digeſt his purpoſe better than he might have done upon the ſudden. When the Hon. Gentleman, to whom he was replying when he had been interrupted, talked of aſſociates, and ſneered at the company in which Oppoſition acted, he ſhould have reflected on the ſort of company he had himſelf got into, and taken a view of the ſtrange *phalanx* with which he was united. He could not well forget the triumph which he uſed to feel in expoſing the unconſtitutional principles upon which the preſent Chancellor of the Exchequer came into office, in uncaſing his artifices, his ſubterfuges, and high prerogative principles; in repreſenting him as an object of diſtruſt and jealouſy, and holding him up to the contempt and deriſion of his country, by ſtripping him of his aſſumed robe of purity, and ſhewing that all beneath was filthy dowlas. In that filthy dowlas he had ſuddenly diſcovered ſomething extremely ſplendid and engaging; for, although the Honourable Gentleman had changed, the miniſter had not. By a change of ſentiment, or rather of ſide, as extraordinary as unprecedented, the Honourable Gentleman was now found the ready advocate of every meaſure of Adminiſtration, which certainly deſerved the ſame character which he formerly aſcribed to it. "With uncommon warmth he extolled thoſe friends with whom he lately aſſociated as the champions of the Conſtitution; but why has he ſuppoſed that this ſide of the Houſe are not as much champions for liberty and the Conſtitution at preſent, as when he co-operated in their exertions to maintain the principles of freedom? He cannot act with them, he ſays, when he reflects in what company they are leagued: He declares, that this is a trying time for the Conſtitution: it is ſo; he ſhould therefore join in endeavouring to preſerve it from the dangerous wounds it is receiving. Why then does he continue his ſupport to the Gentleman oppoſite (Mr. Pitt)? What is there in that Right Honourable Gentleman's conduct which ſhould entitle him to his confidence, or warrant his apoſtacy? Is it when he is introducing foreign troops into the country, and bearing down the privileges of Parliament, that he feels a peculiar impulſe to continue his ſupport?"

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The Honourable Gentleman doubtleſs thought he had a great advantage in repeating his (Mr. Sheridan's) objections to ſtopping the ſupplies in the year 1784; but, on conſideration, he would find that this made directly againſt his purpoſe, and that the Honourable Gentleman had forgotten the principles which he (Mr. Sheridan) had aſſerted in 1784, as much as he had forgotten his own. He had argued on that occaſion, that, when to refuſe the ſupplies was only to withhold from the Crown what none but the Crown would ſuffer by withholding, the power of the purſe in the Houſe of Commons was not a chimera; but that, when circumſtances were ſo changed, that the ſupplies could not be refuſed without the moſt imminent danger to the country, nothing but a criſis the moſt momentous and alarming could juſtify withholding them, and conſequently that the power of the purſe was a much leſs efficient controul than formerly. Such a criſis might poſſibly occur: And ſurely it involved no inconſiſtency to ſay, that the more cautiouſly this remedy ought to be reſorted to, the more carefully ought it to be kept in condition to be effectual when occaſion called for it. If it was not effectual, it would be no more than a chimera. At the time alluded to, all that the Houſe of Commons could withhold was the Land and Malt Tax, by refuſing which, the Crown would feel no perſonal diſtreſs, though it could not fail to operate moſt injuriouſly upon commerce. It would therefore be nugatory to ſtop the ſupplies to the King, by which ſtoppage in fact the King would be no loſer. He alſo conſidered that ſuch was the ſtate of the public mind at that time, and ſuch the diſpoſition of certain perſons to avail themſelves of it, that it was much to be apprehended the Crown would be able to find ſupplies in the ſame unconſtitutional manner which he was now arraigning; and then a principle, or at leaſt a precedent, be eſtabliſhed of infinitely more danger than any that could reſult from granting the ſupplies. From this it would appear, that there was not the ſmalleſt variance between the principles which he held at that time, and thoſe which he maintained at preſent; for his advice at that time was given upon grounds of prudence and expediency. Indeed, he muſt conſider it as ſome degree of hardſhip, that he was thus called upon a ſecond time to anſwer thoſe arguments which he had already anticipated in his opening ſpeech.

Mr. Sheridan ſaid, if there was any part of his conduct through life in which he felt himſelf free from unjuſt imputation, it was that of inconſiſtency in his political principles and attachments. How little the Honourable Gentleman could boaſt of a ſimilar character, would ſhortly appear from his ex-

pedition to Norwich in the time of the American war. The Honourable Gentleman had ſaid, that if he oppoſed the voluntary ſubſcription then propoſed, upon the ground that it was illegal and unconſtitutional, it was becauſe ſuch arguments *were going* at the time, and that his deteſtation of the American war ſuperſeded the love of his country in ſuch a degree, that he could not wiſh ſucceſs to the Britiſh arms when engaged in ſuch a cauſe. He ſhould have been more ſurpriſed at his thus forgetting a fact which occurred ſome years ago, if the failure of his memory had not been ſo lately exemplified, in his forgetting alſo his former principles and attachments. In order to refreſh his recollection, he muſt be under the neceſſity of ſtating to him what their former intimacy and friendſhip enabled him to do; that all his converſation at that time expreſſed the ſtrongeſt conviction of the illegality of theſe ſubſcriptions, and that their illegality, and unconſtitutional tendency, formed the baſis of thoſe arguments he uſed to the meeting which he attended at Norwich. He did injuſtice to his own character, by ſaying, that he employed thoſe arguments becauſe they were going at the time; for it was not to be ſuppoſed that a grave and able man, employed upon a ſerious and important expedition, would uſe his argument as one that was going, as if he met it on the road and had taken it into his poſt-chaiſe, or picked it up by the way, like blackberries upon the buſhes. He did not believe the argument to be true: Whatever might have been his opinion or his wiſhes reſpecting the war, he had no right to go into a popular meeting and miſlead it by falſe law as well as falſe logic.

Mr. Sheridan repeated, that all ſupply given to the Crown, whether great or ſmall, except ſuch as was given by the Houſe of Commons, was illegal and unconſtitutional. In politics, as well as ſcience, the grand principles were, he ſaid clear and abſolute; it was only the ſubordinate parts that were left to diſcretion. Did Gentlemen ſuppoſe, that a general principle was overturned by a ſet of petty deviations? Such deviations ought only to be more carefully guarded againſt, as they were too apt to be drawn into precedents. He perfectly agreed with the Right Honourable Gentleman, that there were few political rules ſo ſtrictly to be adhered to, as to preclude all deviations in caſes of extreme emergency; but that emergency muſt be found to exiſt, as in the year 1745, before the deviation could properly be juſtified. There were alſo ſeveral maxims, an occaſional deviation from which might be attended with no very ſerious conſequences; but there were likewiſe ſome fundamental, ſeminal, and vital principles, an infraction of which, *like flaws upon a diamond*, always debaſed, and frequently deſtroyed,

their value. Of this deſcription was any pecuniary aid given to the Crown through any other medium than that of Parliament; for whatever might be its avowed purpoſe, it was liable to be employed in corrupting the Houſe, and overturning the liberties of the people.

He had already anticipated the uſe that would be made of bounties, given by corporate and other bodies, to encourage the levy of troops which had been voted by Parliament. This practice, whether legal and conſtitutional, or not, was conſtantly connived at by Parliament: Firſt, becauſe it was uſeful from the encouragement it offered; and ſecondly, becauſe it was not likely to have any bad effect; for it was no free gift, nor did the Crown or its ſervants ever handle a ſhilling of it, it being always applied to the ſpecific purpoſe for which it was given, under the direction of thoſe who gave it. The offer of a 74-gun ſhip by a Noble Lord had been adduced. He was not ſo rigorous as to wiſh to puniſh a promiſe that was never fulfilled. The gifts of that Noble Perſon to the Crown were of another kind—They conſiſted in Members of Parliament. He muſt, however, do the Noble Lord, to whom he had alluded, the juſtice to own, that he ſent the Houſe a much more valuable preſent in the Right Honourable Gentleman * who now poſſeſſed their confidence.

He contended that miniſters could have no other purpoſe in view, in exciting this ſubſcription, in what he repreſented to be a clandeſtine way, but to aſſert this high prerogative in the Crown. It was impoſſible that they could expect any conſiderable aſſiſtance from the contributions: They knew that the county of Surry had declared the ſubſcriptions to be unconſtitutional, and they ſuffered them to go to other counties, crippled with a doubt of their legality. If the ſubſcriptions promiſed ſuch a reſource as was pretended, why not remove all difficulties at once, and declare them legal? Not a word had been ſaid to overturn his general doctrine, which was of the utmoſt importance to the Conſtitution. It was ſomething however, that it was not to be negatived, but got rid of by a previous queſtion. Upon the whole, he was of opinion, that miniſters would find more ſubſcribers that night to the motion of the previous queſtion, than they were likely to find towards defraying the expences of the army.

Mr. Sheridan replied to the argument of the Attorney General. In contending for the legality of the proceedings, no

* Lord Lonſdale, at that time Sir James Lowther, firſt returned the preſent Chancellor of the Exchequer to Parliament, as repreſentative of the Borough of Appleby.

daring

daring to meet it with a direct negative, which he knew would not accord with the ſenſe of the country in general, the Learned Gentleman had taken refuge in moving the previous queſtion. He had quoted, indeed, voluminous authorities of lawyers, living and dead: Lord Bacon, Lord Coke, Lord Hardwicke, and Lord Aſhburton, of the dead, were ſummoned in ſupport of the doctrine; and of the living, Lord Camden, as well as Lord Thurlow, who ſeemed peculiarly the god of the Learned Gentleman's idolatry, were ſummoned to appear. He would however contend, that theſe illuſtrious men did not actually hold the opinions that had been imputed to them; and a note of Lord Hardwicke's was found, which expreſsly contradicted the extra-judicial judgment which on another occaſion he had pronounced. The Learned Gentleman, finding himſelf unable to defend his poſition by any direct authority in point, was reduced to have recourſe to ſome *et tu quoque* obſervations applied to a Right Hon. Friend near him (Mr. Fox), which could never be reverted to but in default of better arguments, and which had been ſufficiently done away in the ſpeech of his Right Hon. Friend. In the whole range of his reaſoning, the Learned Gentleman contented himſelf with barely mentioning the ſtatute of 13 Charles II. but wiſely abſtained from any obſervations upon it. As a *ſuccedaneum* for this, however, the Learned Gentleman ſtated with an emphatical *quod nota bene*, that Mr. Wilkes, who, in the year 1778, moved a reſolution ſimilar to that then before the Houſe, upon conſulting legal authority, had altered his opinion. How far the authority of law had influence with that worthy magiſtrate, would appear from an extract, which he read, of a conference between Mr. Wilkes and ſome other perſons reſpecting Gentlemen of the long robe. From this it was evident, that Mr. Wilkes held "that, of all men, lawyers are ſeen to be the leaſt qualified to decide on matters of Government; conſidering the conſtitution as a piece of clock-work, the lawyers, like under-workmen, were capable of conſtructing a wheel or a ſingle link of a chain, but were totally ignorant of the principles which ſet the machine in motion." In order to draw the attention of the Learned Gentleman to this, he would alſo add—*quod nota bene*. In oppoſition to the authorities on the other ſide, he quoted that of Mr. Hargrave, the commentator upon Lord Coke, to whom he paid high compliments, and whoſe opinion entirely correſponded with his own.

Mr. Sheridan contended, that the admiſſion of this new doctrine, connected with the other doctrines that were avowed upon the landing of the Heſſian troops, would render a new Bill of Rights neceſſary. An Hon. Gentleman (Mr. Powys) had,

had, he obſerved, ſaid that voluntary ſubſcriptions were legal, but could not be applied till appropriated by Parliament. This was indeed a moſt whimſical check—When the Crown had got the money, and the troops raiſed by it, then the Honourable Gentleman would talk of appropriating. Mr. Sheridan concluded with declaring, that ſo far was he from wiſhing to impede any plan for the defence of the country, that if great expectations were formed of theſe ſubſcriptions, he would agree to make them legal for the particular occaſion.

Mr. Yorke ſaid, when he heard ſuch challenges as thoſe given by the Hon. Member (Mr. Sheridan), he thought it diſorderly, and always felt an irreſiſtible impulſe to call ſuch a Member to order. He knew it was unparliamentary to aſcribe improper motives to any Hon. Gentleman in that Houſe; but if a number of Gentlemen wiſhed to ſhew themſelves favourable to the French cauſe, as thoſe who wiſhed ſucceſs to the Pretender did in 1745, he thought they would adopt a line of conduct very ſimilar to that which had been ſhewn by the Hon. Gentleman (Mr. Sheridan) that day.

The Hon. J. S. Cocks made a ſhort ſpeech in favour of the previous queſtion.

The Attorney General ſaid, the Act of the 13th Charles II. did no more than put the ſubſcriptions then offered upon the ſame footing with a ſubſidy, in as far as was neceſſary to enable the Crown to compel payment by law.

Mr. Powys ſaid, he did not admit that it was legal for the Crown to receive one ſixpence of the voluntary ſubſcriptions till ſanctioned by Parliament.

Mr. Windham roſe to explain. He ſaid, in 1778 he had argued merely on the doubt reſpecting the legality which was then ſtated by great authorities. He ſhould be glad to hear what principles he had abandoned. The Hon. Gentleman (Mr. Sheridan) had been pleaſed to find fault with him for having abandoned his old friends, and for having joined the Right Hon. Gentleman: He ſaid he had the ſame reaſon to complain of the Gentlemen over the way. He had the ſame right to ſay that they had abandoned him. He had formerly acted with them becauſe he diſagreed with the Right Hon. Gentleman, and he had now abandoned them becauſe he agreed with the Right Hon. Gentleman. He had no opportunity that night, though he moſt heartily wiſhed he had a fair opportunity, of explaining to his old friends, all the reaſons that had induced him to abandon them. He hoped to have that opportunity on ſome future day.

Mr.

Mr. Sheridan ſaid, the whole tenor of the act of 13th Charles II. was inconſiſtent with the explanation given of it by the Attorney General. The Hon. Gentleman who ſpoke laſt had qualified his opinion with an *if*, which was an excellent peace-maker.

The Houſe divided at two o'clock, when the numbers were,

For the Previous Queſtion 204
Againſt it 34

Majority 170

Adjourned.

Liſt of the Minority on the Motion of Mr. Sheridan, againſt the private Benevolences demanded by Government.

Aubrey, Sir John	North, Dudley
Baker, William	Philips, John
Bouverie, Edward	Plumer, William
Burch, J. R.	Rawdon, Hon. John
Byng, George	Robinſon, Maurice
Courtenay, John	Ruſſell, Lord William
Creſpigny, T. C.	Sheridan, R. B.
Fitzpatrick, General	Smith, William
Fox, R. H. C. J.	Speed, Henry
Francis, Philip	Spencer, Lord Robert
Harcourt, John	Taylor, M. A.
Harriſon, John	Townſhend, Lord John
Howard, Henry	Vaughan, Benjamin
Jervoiſe, C. J.	Whitbread, Samuel
Law, Ewan	Weſtern, C. C.
Ludlow, Earl	Wilbraham, R.
Macleod, Colonel	Winnington, Sir Edward

TELLERS.

Grey, Charles — Tarleton, Colonel.

HOUSE OF LORDS.

MONDAY, *March* 31.

NAVIGATION LAWS.

Lord Hawkeſbury moved, that the Houſe be ſummoned for Thurſday the 3d of April, to take into conſideration the renewal of the Navigation Laws.—Ordered.

HOUSE

HOUSE OF COMMONS.

MONDAY, *March* 31.

A new writ was ordered for Cambridge, in the room of Lord Euſton, who has accepted of the office of Ranger of Hyde and St. James's Parks.

INDIA BUDGET.

Mr. Secretary Dundas ſaid, that certain accounts neceſſary to be referred to in his ſtatement of the affairs of India were not yet ready, and therefore he ſhould propoſe that the buſineſs he intended to bring forward that day, ſhould be poſtponed to Friday next. He therefore moved, "That the Houſe ſhould "reſolve itſelf into a Committee of the whole Houſe, on Friday "next, to conſider of the ſeveral accounts and papers pre-"ſented by the Eaſt India Company to the Houſe."—Agreed to.

He moved for ſeveral further India Accounts; which were all ordered to be laid before the Houſe.

Mr. Secretary Dundas moved for leave to bring in a Bill for inſtituting a Court of Criminal Judicature for Norfolk Iſland. —Agreed to.

SUPPLY.

Mr. Hobart brought up the report of the Committee of Supply, containing, among others, a reſolution that the ſum of 300,115l. be granted to his Majeſty for ſeven regiments of defenſive cavalry, &c.—The reſolutions were read, agreed to, and Bills were ordered to be brought in, in purſuance of them.

WAYS AND MEANS, AND LOTTERY.

Mr. Hobart brought up the report of the Committee of Ways and Means, containing a reſolution that 740,666l. 13s. 6d. be raiſed by way of lottery, which is to conſiſt of 40,000 tickets, at 18l. 10s. 4d. each—ſtating the inſtalments by which the purchaſers of tickets are to make good their payments, &c. The reſolution being read,

Mr. M. A. Taylor begged the Chancellor of the Exchequer's attention for a moment,—When the Right Hon. Gentleman introduced the lottery this year, he ſtated to the Houſe, that he had reaſon to believe, the evil of inſurance was in a great meaſure done away by the laſt regulation.—This was erroneous: He did not mean to charge the miniſter with having attempted to impoſe on the Houſe; he muſt have been miſinformed

Mr. Taylor ſaid, he had ſince made inquiry reſpecting that ſubject, the reſult of which was, that he found the evil was in no ſhape done away or diminiſhed. After he came into the Houſe that day, he was met by an Hon. Alderman of the city of London (who was not then in the Houſe); he ſtated to him, that his obſervation coincided with his own. He had, he ſaid, converſation with ſeveral others, and they all confirmed what he had already ſaid with regard to the Lottery; if the miniſter made further inquiry, he would find he had been wrongly informed on this ſubject. He ſhould not then oppoſe the lottery, becauſe the bargain was made; but he begged it now to be underſtood, that if the miniſter ſhould propoſe a lottery in the enſuing ſeſſion of Parliament, he ſhould oppoſe that meaſure, and take the ſenſe of the Houſe upon it. If this tax had been given notice of a week ago, he ſhould have oppoſed it; but under all the circumſtances of the preſent caſe, he ſhould not oppoſe it. He ſhould oppoſe the next, if brought forward, both when opened in the Committee of Ways and Means, and alſo when it ſhould be afterwards brought before the Houſe.

The reſolution was then read a ſecond time, agreed to, and a Bill ordered to be brought in purſuant to it.

VOLUNTEER BILL.

The Chancellor of the Exchequer moved, that the order of the day, for going into a Committee of the whole Houſe, on the Bill for providing regulations with reſpect to ſuch men as ſhall voluntarily enroll themſelves for the internal defence of the country, be read; which being done,

Mr. Honeywood adverted to what had paſſed the other day, on the ſubject of ſubſcriptions for raiſing troops. He ſaid, that having given his opinion on that ſubject, it was unneceſſary for him to repeat it: He felt great difficulty on it, until the meſſage came regularly from the Throne to that Houſe; but after the Addreſs was carried, he felt himſelf in ſome degree relieved, and he attended a meeting of his conſtituents, convened by the Sheriff of the county of Kent. With reſpect to the proceedings on that occaſion, he was put under a new difficulty, and that upon a point in which the liberty of the people of Great Britain was materially concerned: He meant the manner in which accounts of the proceedings were to be publiſhed. The Sheriff had ſigned two accounts of theſe proceedings, at leaſt the Sheriff's authority was ſtated as having been given to two accounts. In the county paper, his (Mr. Honeywood's) name ſtood to a reſolution to which he never

agreed,

agreed, which the Sheriff never put, or if he did, it was after he (Mr. Honeywood) had left the room. In one of the newſpapers it appeared in the form of the requiſition of the Sheriff. But as the reſolution he before alluded to bore his name, and he had never ſigned it, agreed to it, nor even heard it put, he felt himſelf ſo far concerned as to render it neceſſary for him to make this public declaration, that his ſentiments on this public buſineſs ſhould not be miſunderſtood. The reſolution, with his name to it, and which he diſclaimed, appeared as a requeſt from the Lord Lieutenant of the county, to allow other county plans to be entered into. He agreed to nothing of ſuch a nature. The practice of ſending from the Secretary of State a requiſition to the Lord Lieutenant, to be from him recommended or communicated to the Grand Jury, for the purpoſe of raiſing any men without the conſent of Parliament, was what he thought unconſtitutional and dangerous, and what it concerned him to diſclaim. He did not mean to accuſe the Sheriff of having done intentionally any thing that was wrong. Country gentlemen were not men of buſineſs in general, and in the hurry of it might make miſtakes. But he muſt explain for himſelf, for this was a reſolution he never would have acceded to. Having ſaid this, he muſt now obſerve, that the meaſure before the Houſe had his concurrence, as a matter of neceſſity. It was neceſſary for the ſafety of the country. This country was in a lamentable ſituation, and ſorry he was to ſee it: He would do every thing in his power to ſupport it, and to remove the difficulty if poſſible; but, in doing ſo, he muſt take care he did not paſs the limits of the conſtitution itſelf. He thought he knew the value of the conſtitution; and he muſt ſay that, after all he had heard on the ſubject, it appeared to him, that the moſt dangerous prerogative the King of this country could ever poſſeſs, was that of raiſing troops by ſubſcription, as ſome propoſed, without the conſent of Parliament. Even the thought of the Bill now before the Houſe could not be entertained for a day under any excuſe but the moſt preſſing neceſſity.

The Chancellor of the Exchequer ſaid, that the principle of the ſubject now before the Houſe had been fully diſcuſſed on a former occaſion; but he muſt ſtate to the Houſe, that as different Gentlemen had ſuggeſted ſeveral points to him, which he was not ready to lay before the Houſe fully, it might be proper that the Committee on the Bill might be poſtponed till the next day.

Mr. M. A. Taylor ſaid, he did not underſtand that the Houſe had come to any determination, or to any thing like a determination, that the raiſing of troops by ſubſcription was

legal or conſtitutional. He could not think the previous queſtion was a negative to a propoſition. He wiſhed the Houſe to underſtand, and the people of this country to underſtand, that the Houſe of Commons had given no opinion upon the ſubject of raiſing troops by ſubſcription.

The Chancellor of the Exchequer ſaid, he conceived that the Houſe had thought it proper not to come to the queſtion.

Mr. M. A. Taylor ſaid, juſt ſo; but the Houſe had not ſaid that the raiſing men, without the conſent of the Parliament, was legal or conſtitutional.

Mr. Francis ſaid, that the Hon. Gentleman who firſt ſpoke had ſtated a very important fact; and he wiſhed him to declare, whether the meeting was not adjourned before he arrived at it.

Mr. Speaker thought the queſtion irrelevant; which Mr. Francis directly acceded to.

The Houſe then agreed to go into a Committee of the whole Houſe on this Bill the next day.

CIRCULAR LETTERS.

Mr. Sheridan ſaid, that as much ſtreſs had been laid upon the ſeveral anſwers returned to Lord Shelburne's circular letter, upon the debate on a former night, when they wiſhed to fix a charge of inconſiſtency upon his Hon. Friend (Mr. Fox), he ſhould therefore move for papers which appeared to him to be ſo much of courſe to grant, that he conceived it would not be poſſible reaſonably to object to their being laid before the Houſe. Had he entertained any doubt on that ſubject, he ſhould have previouſly given notice of his intention to move for them. He would, however, aſſign an additional reaſon for moving for theſe papers. It was becauſe a Learned Gentleman, in the courſe of the debate on Friday the 28th of March, had quoted extracts from them, and laid a conſiderable ſtreſs on theſe partial parts, in order to prove, as he ſaid, that a ſubſcription for raiſing troops had been thought of by Adminiſtration in the year 1782. He therefore moved, "That an humble "Addreſs be preſented to his Majeſty, humbly praying, that "he will be pleaſed to give directions for laying before the "Houſe, Copies of all the Anſwers received by his Majeſty's "Secretary of State, to the circular letter written by the Earl "of Shelburne, containing plans for raiſing voluntary corps "for the internal defence of the kingdom for the year 1782."

The Chancellor of the Exchequer ſaid, that the ſame motion was made in the year 1782, and oppoſed by the Right Hon. Gentleman (Mr. Fox), who was then Secretary of State, and when the Hon. Gentleman, who made this motion, was himſelf in an official ſituation in the Government of this country.

The Houſe had then thought fit to refuſe theſe very papers; for the ſake of the conſiſtency of the Journals, therefore, he was deſirous it ſhould not appear that papers, which had been refuſed when the ſubject was in agitation, ſhould be granted when they became merely matter of hiſtory. He deſired the Journals to be read, which being done, it appeared, that a motion was made for thoſe papers on the 11th of June, on which a debate aroſe, and the Houſe divided, when the motion paſſed in the negative, there being 68 againſt 22.

Mr. Grey could not accede to the validity of the Chancellor of the Exchequer's reaſoning. He thought there might be good reaſon for refuſing the papers at that time, becauſe the anſwers might expoſe the weakneſs, perhaps, of ſome parts of the country, and therefore it might be prudent, under the then exiſting circumſtances, to refuſe to grant them. But we were under no ſuch circumſtances as to thoſe papers at this time.

Mr. Francis was of opinion, that if conſiſtency was the object, that had been done away already by the uſe that had been made of the extracts from theſe papers in the debate on Friday.

Mr. Sheridan ridiculed the Chancellor of the Exchequer's declaration for conſiſtency, as an affected regard for conſiſtency to conceal a ſubterfuge. The real eſteem he had for that merit was evident in the manner he refuſed on one day, and agreed the next, to receive the petition of Mr. Palmer; and to refuſe and grant the Secretary of State's circular Letter to the Lords Lieutenants. The truth was, Mr. Sheridan ſaid, that this was a ſcheme of the miniſter to make a falſe impreſſion on ſome part of the Houſe, and what part he could of the Public. The Attorney General was to come forward with garbled accounts, and partial extracts, of returns to Lord Shelburne's Letter in 1782, and from that to argue that Subſcriptions had been generally agreed upon for ſupporting the executive power in the year 1782. This was ſo unworthy an attempt, that he muſt take the ſenſe of the Houſe upon it; and venture further to ſay, that if it ſhould then be defeated, he would bring this ſubject forward again in a more formal ſhape.

The Houſe divided.

For the Motion	18
Againſt it	86
Majority	68

The other orders of the day were gone through without any debate.

Adjourned.

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ERRATA

The numbers on the division on Mr. Grey's Motion respecting a Bill of Indemnity (page 332), ought to have stood thus:

Ayes (for the Bill)	41
Noes	170
Majority	129

The Speech attributed to Mr. East, page 367, was spoken by Mr. H. Addington.

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